

GOVERNMENT OF THE
CENTRAL PROVINCES AND BERAR



THE BERAR REVENUE MANUAL

VOLUME I

CONTAINING

THE REVENUE ACTS AND RULES THEREUNDER

FIRST EDITION

Corrected up to 2nd June 1937

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BERAR LAND REVENUE CODE, 1928

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1	2
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Local Government ...	

M. D. SAGANE,

*Under Secy. to Govt., C. P. & Berar,
Revenue Department.*

GPN—931—RS—11-7-38—500.

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BERAR LAND REVENUE CODE, 1928

GOVERNMENT OF INDIA FOREIGN AND POLITICAL DEPARTMENT

NOTIFICATION

Simla, the 25th September 1928.

No. 523-I.—Whereas it is expedient to consolidate and amend the law relating to land revenue, the powers of Revenue Officers and other matters relating to land and the liabilities incident thereto in Berar, the Governor-General in Council in exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf, and in supersession of the notification of the Government of India in the Foreign Department, No. 3068-I-B., dated the 2nd October 1896, and of all subsequent notifications amending the same, is pleased to make the following Law:—

CHAPTER I.—PRELIMINARY

1. (1) This Law may be called the Berar Land Revenue Code, 1928. Title,
extent and
commence-
ment.

(2) It extends to the whole of Berar except such areas as may from time to time be constituted as reserved forest under the Indian Forest Act, 1927, or any other enactment for the time being in force relating to the Forests.

*(3) It shall come into force on such day as the Governor in Council may, by notification, direct.

2. In this Law, unless there is anything repugnant in the subject or context,—

(1) “agricultural year” means the year commencing on the first day of April or on such other date as the Governor in Council may, in the case of any specified local area, by notification, appoint; “Agricultural year”.

(2) “alienated land” means land in respect of which the Crown has assigned in whole or in part its right to receive land-revenue equal in amount to the fair assessment, and the person to whom such assignment is made is called the “superior holder”; “Alienated land” and “superior holder”.

(3) “chaudī” means the place ordinarily used by the patel for the transaction of village business; “Chaudī”.

“Holder”.

(4) “holder” means—

- (a) in reference to unalienated land, an occupant ;
- (b) in reference to alienated land, a superior holder ; and
- (c) in reference to any land, a lessee, tenant, or mortgagee with possession ;

“Holding”.

(5) “holding” means—

- (a) a parcel of land separately assessed to land revenue ; and
- (b) in reference to land held by a tenant—a parcel of land held from a landlord under one lease or set of conditions ;

“Improve -
ment”.

(6) “improvement” means, with reference to land, any work which materially adds to the value of such land, which is suitable thereto and consistent with the purpose for which it is held and which, if not executed on the land, is either executed directly for its benefit, or is, after execution, made directly beneficial to it ; and, subject to the foregoing provisions, includes—

- (a) the construction of tanks, wells, water-channels, embankments and other works for the storage, supply or distribution of water for agricultural purposes ;
- (b) the construction of works for the drainage of land or for the protection of land from floods, or from erosion or other damage from water ;
- (c) the planting of trees and the reclaiming, clearing, enclosing, levelling or terracing of land ;
- (d) the erection of buildings on land or in its immediate vicinity, elsewhere than in the village site, required for the convenient or profitable use of such land ; and
- (e) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto ;
but does not include temporary wells and such water-channels, embankments, levellings, enclosures or other works, or petty alterations in or repairs to such works, as are commonly made by agriculturists of the locality in the ordinary course of agriculture.

Explanation.—A work which benefits several holdings may be deemed to be an improvement with respect to each of such holdings ;

- 7) "land" means a portion of the earth's surface "Land". and, where land is referred to in this Law, it shall be deemed to include all things attached to or permanently fastened to anything attached to such land ;
- 8) "land records" means records maintained ' Land under the provisions of and for the purposes records". of Chapter X ;
- (9) "rent" means whatever is payable to a land- "Rent". lord in money, kind or service by a tenant for the right to use land ;
- 10) "Revenue Officer" means any officer declar- "Revenue ed to be a Revenue Officer by this Law Officer". and any other officer whom the Governor in Council may, for any of the purposes of this Law, declare to be a Revenue Officer ;
- (11) "revenue year" means the year commencing "Revenue on the first day of August or on such other year". date as the Governor in Council may, in the case of any specified local area, by notification, appoint ;
- (12) "sub-division of a survey number" means a "Sub-divi- portion of a survey number in respect of sion of a which the area and the land-revenue pay- survey able are separately entered in the land re- number". cords under an indicative number subordinate to that of the survey number of which it is a portion, and includes a recognized division of a survey number recognized under section 86 of the Berar Land Revenue Code, 1896 ;
- (13) "survey number" means a portion of land Survey number. formed into, or recognized as, a survey number at the last preceding revenue-survey, or subsequently recognized as such by the Deputy Commissioner, in respect of which the area and the land-revenue payable are separately entered under an indicative number in the land records ;
- (14) "tenant" means a person who holds land from "Tenant " another person called his "landlord" and and is, or but for a contract, would be, liable to "landlord

(2) Such officer shall discharge such duties and be subordinate to such authorities as the Governor in Council may prescribe.

Sub-
Divisional
Officers.

11. (1) The Commissioner may place any Assistant Commissioner of the first grade in charge of one or more sub-divisions of a district.

(2) Such Assistant Commissioner shall be called a Sub-Divisional Officer and shall exercise such powers of a Deputy Commissioner as the Governor in Council may, by notification, direct.

(3) The Commissioner may delegate his powers under sub-section (1) to the Deputy Commissioner.

NOTES.—(1) By Notification No. 785-297-XII, dated the 21st February 1929, as amended by Notification No. 1540-1005-XII, dated the 10th May 1933, All Sub-Divisional Officers are invested with the powers specified in the schedule below :—

Schedule

	Section of the Code.
To decide claims against Government to land ..	41 (2)
To alter the assessment and impose premium on diversion of land.	50 (2), (3) and (4).
To dispose of the right to occupy unalienated land ..	53.
To sanction diversion of land and to impose a penalty for diversion without notice.	58.
To take action where land is diverted after permission is refused or in contravention of a condition.	59 (1), (2) and (3).
To eject a third party who diverts land ..	59 (4).
To dispose of intestate holdings ..	63.
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To make assessment and decide disputes in regard to alluvial lands.	70.
To correct errors in the area and assessment of a holding	102.
To fix boundaries of villages and settle village boundary disputes and in such cases to eject a person found wrongly in possession of land.	122, 123 and 124 (1).
To redistribute land revenue in accordance with a civil court decree.	124 (3).
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To recover an arrear recoverable as an arrear of land-revenue by sale of the defaulter's immovable property.	141 (d).
To recover an arrear of land-revenue, or an arrear recoverable as an arrear of land-revenue, by ordering the imprisonment of the defaulter in the civil jail.	141 (e) and 147 (2), (3) and (4).
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To confirm or set aside sale of immovable property ..	159.

(2) By Notification No. 5505-XII, dated the 16th December 1931, all Sub-Divisional Officers have been delegated with the powers of a Deputy Commissioner under clause (a) of sub-section (1) of section 32 of the Code to hear appeals from orders passed by Tahsildars and Naib-Tahsildars under that Code.

(3) The Sub-Divisional Officers of the Ellichpur, Basim and Khamgaon sub-divisions in the Amraoti, Akola and Buldana districts, respectively, have been invested with all powers of a Deputy Commissioner under the Code provided that the said powers are exercised by them in such cases as the Deputy Commissioner of the district may direct (*vide* Notification No. 545-XII, dated the 10th February 1932).

12. Unless the Commissioner otherwise directs, every Revenue Officer in a sub-division shall be subordinate to the Sub-Divisional Officer and in a taluq a Naib-Tahsildar shall be subordinate to the Tahsildar.

Subordination of Revenue Officers in a sub-division and a taluq.

13. (1) The Governor in Council may confer on any stipendiary servant of the Crown the powers of an Assistant Commissioner of the first grade or a Tahsildar.

Conferral of powers on officials and other persons.

(2) The Governor in Council may confer on an Assistant Commissioner of the first or second grade, Tahsildar, or Naib-Tahsildar any of the powers of a Revenue Officer of a higher class.

(3) If any Revenue Officer who has been invested with any powers under this Law in any taluq or district is transferred to an equal or higher office of the same nature in any other taluq or district he shall, unless the Governor in Council otherwise directs, be held to be invested with the same powers under this Law in such other taluq or district.

NOTES.—(1) By Notification No. 786-297-XII, dated the 21st February 1929, as amended by Notification No. 1328-794-XII, dated the 23rd April 1930, Notification No. 3392-2767-XII, dated the 26th October 1932, and Notification No. 1538-1005-XII, dated the 10th May 1933, all Tahsildars are invested with powers under the Code specified in the schedule below :—

Schedule

	Section of the Code.
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To dispose of the right to occupy unalienated land subject to the provisions of the rules under section 53.	53.
To dispose of relinquished sub-divisions ..	61.
To impose penalty and assessment on persons unauthorizedly taking possession of lands, to eject persons unauthorizedly in possession and dispose of forfeited property.	64.
To eject a person unauthorizedly in possession of land ..	65.
To correct the record-of-rights in accordance with a civil court decree.	112 (3).
To correct clerical errors and errors admitted by the parties in the record-of-rights.	114.
To impose a penalty for neglect to make report or furnish information or documents as required by sections 109 and 116.	117.
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Schedule—concl'd.

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(a) Service of a written notice of demand on the defaulter.	
(b) Attachment and sale of the defaulter's movable property.	
(c) Arrest and detention of the defaulter.	
To recover an arrear recoverable as arrear of land-revenue by attachment of the defaulter's immovable property.	141 (d).
To decide what property should be exempt from attachment.	141, proviso 1 (b).
To decide claims by third parties to property attached or proceeded against.	146.
To issue proclamation and conduct sale of immovable property.	149 and 150.
To recover deficiency of price and costs of sale from a defaulting purchaser.	153 (2) and 154.
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To place the purchaser in possession and give him a certificate.	161.
To prevent the removal of crop in cases of anticipated default, employ watchmen, etc., and impose fine for disobedience of order.	166, 167, 168, 169 and 170.
To impose a penalty for recovery of cess from a tenant in excess of the legal amount.	171 (5).
To demand the production of records prepared by hereditary or village officers.	189.

(2) All substantive, probationary and officiating Naib-Tahsildars in Berar, who have completed two years' service and have passed in all the prescribed departmental examinations, have been invested with the powers of a Tahsildar under the Code (*vide* Notification No. 2967-2231-XII, dated the 14th September 1932).

14. In conferring powers under this Law the Governor in Council may empower persons by name or classes of officials generally by their official designations.

15. If the Deputy Commissioner dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district in revenue matters shall be held to be the Deputy Commissioner under this Law until the Governor in Council appoints a successor to the Deputy Commissioner so dying or disabled, and such successor takes charge of his appointment.

CHAPTER III.—PROCEDURE OF REVENUE OFFICERS

16. Except for reasons to be recorded, no Revenue Officer shall inquire into or hear any case at any place outside the local limits of his jurisdiction:

Provided that a Sub-Divisional Officer may inquire into or hear any case at the headquarters of the district to which he is appointed.

Conferral of powers on officials by name or class.

Deputy Commissioner
use of
porary
cancy.

Place for hearing cases.

17. All Revenue Officers, revenue inspectors, measurers and patwaris, and when under their observation and control, their servants and workmen when so directed, may enter upon and survey land and demarcate boundaries and do other acts connected with their duties under this Law or any other enactment for the time being in force, and in so doing, shall cause no more damage than may be required for the due performance of their duties :

Power to enter upon and survey land.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house, unless with the consent of the occupier thereof, without giving such occupier at least twelve hours' notice in writing, and, in making such entry, due regard shall be paid to the social and religious sentiments of the occupier.

18. The Governor in Council or the Commissioner may transfer any case or class of cases from any subordinate Revenue Officer to any other such officer competent to deal therewith.

Power of superior revenue authorities to transfer cases.

19. A Deputy Commissioner, a Sub-Divisional Officer or a Tahsildar may make over any case or class of cases, arising under the provisions of this Law or otherwise, for inquiry or decision, from his own file to any Revenue Officer subordinate to him competent to deal with such case or class of cases, or may withdraw any case or class of cases from any such Revenue Officer and may deal with such case or class of cases himself or refer the same for disposal to any other such Revenue Officer competent to deal therewith.

Power to transfer cases to and from subordinates.

V of 1908 20. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, and to rules made under this Law, every Revenue Officer shall have powers to take evidence and to summon any person whose attendance he considers necessary either as a party, or as a witness or to produce any document for the purposes of any case arising under this Law or any other enactment for the time being in force.

Power of Revenue Officers to take evidence and to require attendance of persons and production of documents.

(2) A summons to produce documents may be for the production of certain specified documents or for the production of all documents of a certain description in the possession or power of the person summoned.

(3) If any person, on whom a summons to attend as a witness or to produce any document has been served, fails to comply with the summons, the officer by whom

the summons has been issued may issue a bailable warrant for the arrest of such person.

(4) No person shall be ordered to attend in person unless he resides—

(a) within the local limits of the Revenue Officer's jurisdiction; or

(b) without such limits but at a place less than fifty or, where there is railway communication or other established public conveyance for five-sixths of the distance between the place where he resides and the place where he is summoned to attend, less than two hundred miles distant from such place.

(5) Any person present may be required by any Revenue Officer to give evidence or to produce any document then and there in his possession or power.

Form and
contents of
summons.

21. (1) Every summons shall be in writing in duplicate and shall be signed and sealed by the officer issuing it or by such person as he empowers in this behalf, and it shall specify the time and place at which the person summoned is required to attend, and also whether he is required to attend as a party or to give evidence or to produce a document.

Mode of
serving
summons.

(2) Every summons shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found or refuses to accept service of the summons by affixing a copy of it to some conspicuous part of his usual residence, and, if such person resides in another district, the summons may be sent by post to the Deputy Commissioner of such district for service.

Duty of per-
sons sum-
moned to
appear.

22. Subject to the provisions of this Law, whoever is summoned to appear before a Revenue Officer to attend as a party or to give evidence shall attend at the time and place named in the summons for that purpose and whoever is summoned to produce a document shall either attend to produce it, or cause it to be produced, at such time and place.

Mode of
serving
notice.

23. Every notice under this Law may be served either by tendering or delivering a copy thereof, or sending such copy by post to the person on whom it is to be served, or his authorized agent or, if service in the manner aforesaid cannot be made by affixing a copy thereof at his last known place of residence or at some place of public resort in the village in which the land to which the notice relates is situated or from which the land is cultivated.

24. Whenever a proclamation is issued under this Law, copies thereof shall be posted in the court-house of the officer issuing it, at the headquarters of the taluq within which the land to which it refers is situated, and at some place of public resort on or adjacent to the land to which it refers, and, unless the officer issuing it otherwise directs, the proclamation shall be further published by beat of drum in the village in which the land to which it refers is situated, or, if such village is uninhabited, in the village from which the land is cultivated.

Mode of
issuing
procla-
mation.

25. No notice or proclamation shall be deemed void on account of any error in the name or designation of any person or in the description of any land referred to therein, unless such error has produced substantial injustice.

Notice or
proclama-
tion not
void for
error.

26. If any party to a case before a Revenue Officer does not, after a summons or notice has been duly served upon him, appear on the date fixed for hearing, the case may be heard and determined in his absence or may be dismissed in default.

Hearing in
absence of
party.

27. (1) A Revenue Officer may, from time to time, for reasons to be recorded, adjourn the hearing of a case before him.

Adjournment
of hearing.

(2) The date and place of an adjourned hearing of a case shall be intimated at the time of the adjournment to such of the parties and witnesses as are present.

28. (1) Except where a case before any Revenue Officer has been decided on the merits, no appeal shall lie from an order passed under section 26.

No appeal
from order
passed
under sec-
tion 26.

(2) The party against whom any order is passed under section 26 may apply, within thirty days from the date of such order, to have it set aside on the ground that he was prevented by any sufficient cause from appearing at the hearing, and the Revenue Officer may, after notice to the opposite party and after making such inquiry as he considers necessary, set aside the order so passed.

Application
to set aside
order passed
under sec-
tion 26.

29. A Revenue Officer may give and apportion costs incurred in any case arising under this Law or otherwise in such manner and to such extent as he thinks fit:

Power to give
and appor-
tion costs.

Provided that the fees of legal practitioner shall not be allowed as costs in any such case unless such officer considers otherwise for reasons to be recorded.

Delivery of possession of, or ejectment from immovable property.

30. (1) An order for the delivery of possession of immovable property or for the ejectment of a person wrongfully in the possession of land shall be enforced in the manner provided in the Code of Civil Procedure, 1908, in respect of the execution of a decree by which a civil court has adjudged delivery of possession of, or ejectment from, such property.

(2) In enforcing such orders a Revenue Officer shall have all the powers in regard to contempts, resistance, and the like which a civil court may exercise in the execution of its decrees.

(3) Rule 103, Order XXI, of the first schedule to the Code of Civil Procedure, 1908, shall apply to any order passed in exercise of powers under this section.

Persons by whom appearances and applications may be made before and to Revenue Officers.

31. Save as otherwise provided in any other enactment for the time being in force, all appearances before, applications to, and acts to be done before, any Revenue Officer under this Law or otherwise may be made or done by the parties themselves, or by their recognized agents, or by any legal practitioner :

Provided—

- (i) no legal practitioner of less than five years' standing shall be entitled to appear before the Governor in Council ;
- (ii) subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, any such appearance shall, if the Revenue Officer so directs, be made by the party in person.

CHAPTER IV.—APPEAL, REVISION AND REVIEW

Appeals and appellate authorities.

32. (1) Save where an order is declared by this Law to be final, an appeal shall lie from every original order under this Law or the rules made thereunder—

- (a) if such order is passed by any Revenue Officer subordinate to the Deputy Commissioner, to the Deputy Commissioner ;

NOTE.—An appeal from any original order of a Sub-Divisional Officer lies to the Deputy Commissioner and not to the Commissioner. It is immaterial whether the Sub-Divisional Officer is empowered to perform certain functions of the Deputy Commissioner under the Code. (Revenue Department letter No. 3435-2649-XII, dated the 3rd November 1932.)

- (b) If such order is passed by a Deputy Commissioner, to the Commissioner ;

(c) if such order is passed by the Commissioner, to the Governor in Council.

(2) A second appeal shall lie to the Commissioner or Governor in Council as the case may be—

(a) if the original order has in appeal been varied or reversed, otherwise than in a matter of costs; or

(b) on any of the following grounds and no other, namely —

(i) that the order is contrary to law or usage having the force of law;

(ii) that the order has failed to determine some material issue of law or usage having the force of law;

(iii) that there has been a substantial error or defect in the procedure as prescribed by this Law, which may have produced error or defect in the decision of the case upon the merits.

(3) A third appeal shall lie to the Governor in Council on the following ground and no other, namely, that the order is contrary to law or usage having the force of law.

(4) An order passed on revision or review varying or reversing any order shall be appealable in like manner as the order so revised or reviewed.

33. No appeal shall lie from an order—

(a) admitting an appeal or application for review on the grounds specified in section 5 of the Indian Limitation Act, 1908; or

(b) rejecting an application for revision or review.

No appeal
against certain
orders.

34. No appeal shall lie—

(a) to the Deputy Commissioner after the expiration of forty-five days from the date of the communication to the appellant of the order to which objection is made; or

(b) to the Commissioner after the expiration of sixty days from such date; or

(c) to the Governor in Council after the expiration of ninety days from such date.

Limitation of
appeals.

35. Every petition for appeal, review or revision shall be accompanied by a certified copy of the order to which objection is made unless the authority to which the petition is made dispenses with its production.

Copy of order
objected to
accompany
petition.

Powers of
appellate
authority.

36. (1) The appellate authority may either admit the appeal or, after calling for the record and giving the appellant an opportunity to be heard, may summarily reject it:

Provided that the appellate authority shall not be bound to call for the record where the appeal is time-barred or does not lie.

(2) If the appeal is admitted, a date shall be fixed for hearing and notice thereof shall be served on the respondent.

(3) After hearing the parties, if they appear, the appellate authority—

(a) may confirm, vary or reverse the order appealed against; or

(b) may direct such further investigation to be made, or such additional evidence to be taken, as it may think necessary; or

(c) may itself take such additional evidence; or

(d) may remand the case for disposal with such directions as it thinks fit.

Powers to
stay execution
of orders
appealed
against.

37. (1) If an appeal is admitted, the appellate authority may, pending the result of the appeal, direct the execution of the order appealed from to be stayed.

(2) A Revenue Officer who has passed any order, or his successor in office, may direct the execution of such order to be stayed at any time before the expiry of the period prescribed for appeal, if no appeal has been filed.

(3) Before execution of any order is stayed under sub-section (1) or (2), such security may be taken or conditions imposed as the appellate authority or Revenue Officer thinks fit.

Revision and
revisional
authorities.

38. The Governor in Council, Commissioner or Deputy Commissioner may, at any time, either on his own motion or on the application of any party interested, for the purpose of satisfying himself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of, any Revenue Officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit:

Provided that he shall not vary or reverse any order affecting any question of right between private persons

without having given to the parties interested notice to appear and be heard.

39. *(1) The Governor in Council or any Revenue Officer may, either on his own motion or on the application of any party interested, review any order passed by himself or by any of his predecessors in office and pass such order in reference thereto as he thinks fit : Review of orders.

Provided that—

- (i) if the Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, or if an officer subordinate to the Deputy Commissioner proposes to review any order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate ;
- (ii) no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard ;
- (iii) no order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending, be reviewed ;
- (iv) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings, and no application for the review of such order shall be entertained unless it is made within ninety days from the date of communication of the order to the party applying.

(2) For the purposes of this section the Deputy Commissioner shall be deemed to be the successor in office of any Revenue Officer who has left the district, or who has ceased to exercise powers as a Revenue Officer, and to whom there is no successor in the district.

(3) An order which has been dealt with in appeal or on revision shall not be reviewed by any Revenue Officer subordinate to the appellate or revisional authority.

40. The provisions of the Indian Limitation Act, 1908, shall apply to all appeals and applications for review under this Law. Application of Act IX of 1908.

* Inserted by Government of India, Foreign and Political Department Notification No. 540-I, dated the 17th October 1933.

CHAPTER V.—LAND AND LAND REVENUE

Title of Government in all lands, public roads, etc., which are not the property of others.

41. (1) Save as otherwise provided by any law for the time being in force all lands, public roads, lanes and paths, the bridges, ditches, dykes and fences on or beside the same, the beds of rivers, streams, nalas, lakes and tanks, and all canals and water-courses, and all standing and flowing water, and all rights therein, which are not the property of persons, are, and are hereby declared to be, the property of the Crown for the purpose of the Province.

Procedure where Government's title is disputed.

(2) Where the Crown claims any right under sub-section (1) and the claim is disputed by any person, it shall be decided by the Deputy Commissioner, whose order shall, subject to the provisions of sub-sections (3) and (4), be subject to appeal and revision in accordance with the provisions of this Law, but shall not otherwise be contested before any court or other authority.

(3) Where an order by the Deputy Commissioner made under sub-section (2), or an order in appeal therefrom or in revision thereof, is in favour of the Crown, any person aggrieved thereby may, notwithstanding anything contained in section 192, sub-section (2), institute a civil suit to establish his right, within a period of one year from the date of the communication to him of such order.

(4) Where a civil suit has been instituted under sub-section (3) against any order, such order shall not be subject to appeal or revision.

Assignment of lands for village grazing.

42. Subject to rules made under this Law, the Deputy Commissioner may set apart unoccupied unalienated land for free pasturage for village cattle, for grass reserves, for the extension of the village site or for any public purpose; and lands assigned specially for any such purpose shall not be otherwise diverted without the sanction of the Deputy Commissioner.

RULES REGARDING CLASSIFICATION OF LAND

Notfn.

No. 3104-XII, boundaries of a village shall be divided into the following dated the 1st classes :—
October 1929.

E.—Survey numbers assigned for free grazing, not included in the forest area.

F.—Survey numbers assigned for village purposes other than free grazing, such as gaothan khalwadi, burial ground, playing fields, assessed grazing fields, land set apart for purposes of nature, etc.

G.—Unculturable fields not included in any of the foregoing.

H.—Assessed fields available for cultivation.

I.—Areas such as village sites, tanks, rivers, etc., not included in any survey number.

2. No unoccupied land within half a mile of a railway station shall be given out for cultivation.

3. Land shall not be assigned or diverted under section 42 without previous consultation with the village body (if any) or the local residents.

43. Grazing on Crown waste lands shall, subject to rules made under this Law, be regulated by the Deputy Commissioner. Grazing on Government waste lands.

RULES REGARDING GRAZING ON GOVERNMENT WASTE LANDS

1. Any resident or cultivator of a village in which E class land is situated, or with the permission of the Deputy Commissioner, any resident of any other village is entitled to graze cattle in such land. Notfn. No. 3104-XII, dated the 1st October 1929.

2. Any cattle belonging to persons not residing or cultivating land in the village may be impounded if they are found grazing, without the permission of the Deputy Commissioner, in E class land in such village.

3. Any person who has taken out a licence to graze his cattle in any Government forest is entitled, without additional payment, to graze such cattle in any E. class land in the district.

44. (1) Unless it is otherwise expressly provided in the terms of a grant made by the Crown, the right to all minerals shall vest in the Crown for the purposes of the Province, and the Provincial Government shall have all powers necessary for the proper enjoyment of such rights. Government title to minerals.

(2) The right to all minerals includes the right of access to land for the purpose of mining and quarrying and the right to occupy such other land as may be necessary for purposes subsidiary thereto, including the erection of offices, workmen's dwellings and machinery, the stacking of minerals and deposit of refuse, the construction of roads, railways or tram lines and any other purposes which the Governor in Council may declare to be subsidiary to mining and quarrying. Rights subsidiary thereto.

(3) If the Crown has assigned to any person its right over any minerals, mines or quarries, and if, for the proper enjoyment of such right, it is necessary that all or any of the powers specified in sub-sections (1) and (2) should be exercised, the Deputy Commissioner may, by Effect of assignment of Government's title to minerals.

an order in writing, subject to such conditions and reservations as he may prescribe, delegate such powers to the person to whom the right has been assigned :

Provided that no such delegation, other than a delegation of rights sufficient to allow a person to prospect for minerals, shall be made until notice has been duly served on all persons having rights in the land affected and their objections, if any, have been heard and considered.

Com-
pensation
for occupa-
tion or dis-
turbance of
surface of
land.

(4) If in the exercise of the right herein referred to over any land, the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the Provincial Government or the assignees from the Crown, as the case may be shall pay to such persons compensation for such infringement, and, in the absence of agreement, the amount of such compensation shall be calculated by the Deputy Commissioner, or, if his award is not accepted, by the civil court, as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1894 (I of 1894).

(5) No assignee of the Crown shall enter on or occupy the surface of any land without the previous sanction of the Deputy Commissioner, unless the compensation has been agreed upon or calculated by the Deputy Commissioner and tendered to the person whose rights are infringed.

(6) If an assignee of the Crown fails to pay compensation as provided in sub-section (4), the Deputy Commissioner may recover such compensation from him on behalf of the person entitled to it, as if it were an arrear of land revenue.

Explanation.—In this section “minerals” includes any sand or clay which the Governor in Council may declare to have a commercial value or to be required for any public purpose.

Government
trees and
forest.

45. Except in so far as they are vested in persons, all trees, shrubs, brushwood and other natural products wherever growing shall vest in the Crown for the purposes of the Province, and shall be disposed of in accordance with rules made under this Law.

RULES REGARDING DISPOSAL OF TREES AND FOREST PRODUCE

Notfn. No.
3104-XII,
dated the 1st
October 1929,
as amended
by Notfn. No.
678-510-XII,
dated the 26th
March 1931.

1. Any resident or cultivator of a village in which E class land is situated, or, with the previous sanction of the Tahsildar, any resident of any other village may, from such land,—

(a) collect and remove for his personal use such forest produce, leaves and fruits as are not auctioned under rule 2 :

Provided that the Tahsildar may prohibit removal or impose conditions on the removal of leaves of sindi palms if he is satisfied that the palm trees are being damaged;

(b) remove for his personal use in head loads any dead wood;

(c) fell and remove only for repairs to carts and agricultural implements and petty repairs to houses and cattle sheds and for fencing fields any tree other than mango, pipal, gular, pakhar, banyan, tamarind, sindi, mowha, tendu, jamun and anjun :

Provided that no tree within 40 feet of the bank of a nala in which water ordinarily remains until the end of January shall in any case be felled, cut or removed :

Provided further that nothing in this rule, shall prevent the Tahsildar from preserving such trees as may in his opinion be necessary to provide shade for cattle.

2. Notwithstanding anything contained in rule 1, the Tahsildar, if he is satisfied that any E or I class land has become so overgrown with trees as to affect prejudicially its value for the purpose for which it has been reserved, may auction the trees to the highest bidder reserving only the trees mentioned in rule 1, sub-clause (c), and so many other trees as may be necessary to provide shade for cattle or for other purposes.

3. Subject to the above rules the right to remove the produce of trees vesting in Government shall be sold for a period not exceeding three years by public auction under the orders of the Tahsildar. The amount to be bid shall be the amount payable annually, and it shall be paid in cash each year before the crop is gathered by dates to be fixed by the Tahsildar.

4. Subject to rules 1 and 2, trees, brushwood and other natural products shall be disposed of from time to time by public auction under the orders of the Tahsildar.

46. In unalienated lands, trees, shrubs, undergrowth and other natural products shall be deemed to be part of the land on which they are situated. Occupant's right in trees.

47. In alienated lands, trees, shrubs, undergrowth and other natural products shall not vest in the Crown unless they were reserved to the Crown at the time the land was alienated. Trees in alienated land.

48. Any person who unauthorizedly fells and appropriates any tree or any portion thereof, or removes any shrub, undergrowth or other natural product which is vested in the Crown, or in a local authority, shall be liable to the Crown for the value thereof and shall also be liable, at the discretion of the Deputy Commissioner, to a penalty not exceeding five rupees, or ten times such value, whichever is greater, and such value and penalty shall be recoverable as arrears of land-revenue. Recovery of value of trees, etc., unauthorizedly appropriated

an order in writing, subject to such conditions and reservations as he may prescribe, delegate such powers to the person to whom the right has been assigned :

Provided that no such delegation, other than a delegation of rights sufficient to allow a person to prospect for minerals, shall be made until notice has been duly served on all persons having rights in the land affected and their objections, if any, have been heard and considered.

Com-
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for occupa-
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turbance of
surface of
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Liability of land to payment of land-revenue.

49. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of revenue to the Crown, except such land as has been wholly exempted from such liability by special grant of, or contract with the Crown, or under the provisions of any law or rule for the time being in force.

“Land-revenue”.

(2) Such revenue is called “land-revenue”; and that term includes all moneys payable to the Crown for land, notwithstanding that such moneys may be described as premium, rent, quit-rent, or in any other manner, in any enactment, rule, contract or deed.

Variation of land-revenue according to purpose for which land is used.

50. (1) The assessment of land-revenue on any land shall be made, or shall be deemed to have been made, as the case may be, with reference to the use of the land—

- (a) for the purpose of agriculture;
- (b) as sites for dwelling houses; and
- (c) for any other purpose.

(2) Where land assessed for use for any one purpose is diverted to any other purpose the land-revenue payable upon such land shall, notwithstanding that the term for which the assessment may have been fixed has not expired, be liable to be altered and assessed at a different rate by the Deputy Commissioner, subject to rules made under this Law.

(3) Where land held free from the payment of land-revenue on condition of being used for any purpose is diverted to any other purpose it shall become liable to the payment of land-revenue.

Explanation.—Where land is held as a site for a dwelling house, and a portion thereof is used for cultivation, such portion shall not be deemed to be diverted to another purpose.

(4) Where land is diverted and land revenue is assessed thereon under the provisions of this section, the Deputy Commissioner shall also have power to impose a premium on the diversion in accordance with rules made under this Law.

RULES REGARDING PREMIUM AND ASSESSMENT ON DIVERSION OF AGRICULTURAL LAND

Notfn. No. 3179-XII, dated the 9th October 1929, as amended by Notfn. No. 925-415-XII, dated the 9th March 1935.

1. For the purpose of these rules and rules under sections 58 and 64 towns and villages in Berar shall be divided into the following classes:—

Class 1.—Municipalities and towns with a population of 10,000 or more.

Class II.—Villages with a population of 5,000 or more, but less than 10,000.

Class III.—Villages with a population of 2,000 or more, but less than 5,000.

Class IV.—Villages with a population of less than 2,000 :

Provided that with the sanction of the Commissioner, the Deputy Commissioner may include any particular village in a higher or lower class than that prescribed in this rule.

Explanation.—When the village sites of two or more villages adjoin, the population shall be taken as the population of the combined villages.

2. When unalienated land held for purposes of agriculture is diverted with permission to any non-agricultural purpose, the revised assessment shall be fixed as follows:—

	Rs. a. p.			
Class I	...	30	0	0 per acre.
Class II	...	15	0	0 "
Class III	...	7	8	0 "
Class IV	...	3	0	0 "

and a premium shall be imposed as follows:—

	Rs.	
Class I	...	500 per acre.
Class II	...	300 "
Class III	...	150 "
Class IV	...	Nil

3. The Deputy Commissioner may, for reasons to be recorded in writing in any special case, (a) require the payment of premium and assessment not exceeding the rate prescribed for towns of class I in any village or town of any of the other classes or (b) with the sanction of the Commissioner reduce the premium and assessment in cases where these would exceed the maximum admissible under section 93 (4) of the Code or (c) with the sanction of the Local Government may require the payment of premium and assessment in excess of the maximum prescribed for a class I town.

4. All changes in assessment on account of diversion shall be brought on the akarband, record-of-rights and village jama-bandi, and necessary correction will also be made in the survey numbers.

51. On all lands on which the assessment has not been made under section 96, the assessment of land-revenue shall be made by the Deputy Commissioner in accordance with rules made under this Law. Assessment by whom to be fixed.

RULES REGARDING ASSESSMENT ON UNASSESSED LANDS

1. Unalienated land which has not been assessed and which has been occupied, or is proposed to be given out, for purposes of agriculture shall be assessed at the rate for similar soil in the same or neighbouring villages, and the assessment so fixed shall be liable to revision at the next revenue survey of the taluq. Notfn. No. 3366-XII, dated 25th October 1929.

2. Unalienated land which has not been assessed and which has been occupied, or is proposed to be given out, for non-agricultural purposes shall, if liable to assessment, be assessed at the rate of one anna per rupee on half its freehold market value. The freehold market value means the price the land would fetch if it were sold free of rent or revenue in perpetuity.

3. Nazul land vested or to be vested in a local body shall, unless exempted from assessment by the Local Government, be assessed at one anna per rupee of half its freehold market value in accordance with rule 2, if the land is used or to be used for building purposes or at Rs. 30 per acre, if the land is used for open markets, bazars or similar purposes.

Rates for use
of water.

52. Subject to rules made under this Law, the Governor in Council may fix rates for the use of water which has been made available in consequence of the construction, improvement or repair of any irrigation or other work by any Government. Such rates shall be liable to revision at such periods as the Governor in Council may determine, and shall be recoverable as land-revenue.

CHAPTER VI.—THE GRANT, USE AND RELINQUISHMENT OF UNALIENATED LAND

Disposal of
unoccupied
and.

53. Subject to the provisions of section 55 and to rules made under this Law, the right to occupy unoccupied unalienated land shall be disposed of by the Deputy Commissioner, who may require payment of a premium for such right or sell the same by auction :

Provided that, where the Deputy Commissioner disposes of the right to occupy unalienated land for any purpose for which the erection of a building is necessary, the grant shall be subject to the following conditions, namely :—

- (i) when applying for land, the applicant *[shall if so required produce] before the Deputy Commissioner plans and an estimate of the cost of the building he proposes to erect ;
- (ii) if the application is sanctioned, the occupant shall commence the erection of the building and shall complete the same before such date as the Deputy Commissioner may, in accordance with such rules, prescribe ; and
- (iii) if the occupant fails to comply with any order of the Deputy Commissioner passed under this proviso, he shall cease to be entitled to the use of the land and his possession thereof shall be unauthorized within the meaning of section 65.

*Amended by Government of India, Foreign and Political Department Notification No. 82-I, dated the 22nd February 1933.

RULES REGARDING THE GRANT OF RIGHT TO OCCUPY UNALIENATED LAND

A.—For agricultural purposes

1. Any person desiring to become an occupant of H class land shall apply through the patel to the Tahsildar. Notfn. No. 3719-2386-XII,
 2. The Tahsildar, after satisfying himself that there is no objection to the land being given out for cultivation, shall cause a notice in Form I to be affixed in the *chaudi* of the village in which the land is situated and in the *chaudis* of the adjoining villages, and shall cause the contents of the notice to be proclaimed by beat of drum in the aforesaid villages. d. 17-11-29. as amended by Survey and Settlement Department Notfn. Nos. 769-XVI, d. 14-9-31, No. 159-XVI, d. 2-3-33 and No. 619-XVI, d. 10-8-33.
 3. The Tahsildar shall procure a list of the trees standing on the land and calculate their value in accordance with a scale prescribed for the district by the Deputy Commissioner.
 4. In the villages transferred from the Melghat taluq under Notification No. 440, dated the 29th August 1912, the Tahsildar shall, if there is no competition for the land pass an order granting the right to occupy, subject to the payment by the applicant within fifteen days of the price, if any, fixed for the trees, provided that the Deputy Commissioner may permit payment for the trees, to be made in instalments.
 5. If there is competition for the land in such a village, the Tahsildar may allot it to a resident or occupant of any of the aboriginal tribes or backward castes detailed in Notification No. 1466-XII, dated the 20th April 1929, under section 66 of the Code on payment of the price of the trees. If there is more than one applicant from amongst these tribes or castes, the land shall be sold by auction; but the Sub-Divisional Officer shall not be bound to accept the highest bid if made by a person who is not a member of any of the aforesaid tribes or castes.
- Such occupant shall be granted a certificate in Form II if he belongs to an aboriginal tribe or backward caste, otherwise in Form IV.
6. In cases other than those specified in rules 4 and 5, the land shall be sold by auction.
 7. Not less than 15 days prior to the date fixed for the auction, a notice in Form III shall be affixed at the tahsili and at the *chaudi* of the village in which the land is situated and proclamation of the sale shall be made by beat of drum in the village in which the sale is to be held.
 8. The upset price shall be the value of all the trees growing on the land.
 9. The sale shall be held by the Tahsildar or Naib-Tahsildar. Before the sale begins the person conducting it shall read out the particulars contained in the notice in Form III.
 10. The highest bidder shall deposit immediately after the sale is closed 25 per cent of his bid as earnest money. The Tahsildar shall then submit the proceedings to the Sub-Divisional Officer for confirmation.

11. The balance of the purchase-money shall be paid within fifteen days of the purchaser being informed of the confirmation of the sale. In default of payment of the balance within the prescribed period the deposit shall be forfeited to Government, and the land shall be re-auctioned, and if the proceeds of the fresh auction amount to less than the premium bid by the defaulting purchaser the difference shall be recoverable from him as an arrear of land-revenue.

12. No sale shall be valid until it has been confirmed by the Sub-Divisional Officer and the full amount paid.

13. On payment of the full amount of the premium the Tahsildar shall give the purchaser a certificate in Form IV and cause him to be placed in possession and he shall thereupon be liable to pay land-revenue with effect from the following revenue year.

B.—For building sites in the village site of villages other than towns to which the Nazul Rules apply

14. (1) Subject to the control of the Tahsildar, the revenue patel is authorized to allot building sites up to a limit of one guntha or extensions which do not cause the total site to exceed that limit except in villages of the following kinds:—

(a) Villages with a population of more than 2,000.

(b) Bazar villages.

(c) Villages adjoining railway stations.

(2) The Tahsildar is authorized to allot sites up to five gunthas in villages with a population not exceeding 5,000 other than villages adjoining railway stations.

(3) The Sub-Divisional Officer is authorized to allot sites in other cases; provided that, in villages adjoining railway stations and villages with a population of more than 5,000, the allotment shall be in accordance with a layout sanctioned by the Deputy Commissioner: and provided further that a strip of land 100 yards broad shall be reserved round each railway station.

15. The patel shall maintain a register in Form IV (a) of vacant sites available for building, with a rough map of such sites. This register shall be checked by the Tahsildar and signed by him after marking as reserved sites of the following kinds:—

(a) Any site formerly occupied by Government buildings, *e.g.*, garhis, tahsil buildings, etc.,

(b) any site which is likely to be required by Government,

(c) any site which it is desirable should be kept open for the public,

(d) any site within 45 feet of a well or stream or the boundary of a tank.

A copy of the register shall be filed in the tahsili.

16. No site shall be given out for building purposes which is not entered or which is marked as reserved in the vacant sites register, except with the sanction of the Sub-Divisional Officer.

17. Every grant of a site shall be noted in the remarks column of the register and a report of the grant sent to the

Tahsildar and a certificate in Form V shall be given to the applicant.

18. A register in Form VI shall be maintained in the tahsili and by the patwari for all sites granted in a village.

19. Where the patel is not empowered to dispose of the application or there is more than one applicant for a site or there is any dispute, he shall submit the applications with his report to the Tahsildar. The Tahsildar shall thereupon issue a proclamation in Form VII, which shall be affixed at the *chaudi*, and on expiry of the period mentioned in the proclamation shall proceed as laid down hereafter.

20. Where the site is claimed by a third party, the Tahsildar shall reject the application unless he is satisfied after enquiry that the site is really vacant.

21. If the applicant is entitled to a house site free of land-revenue under section 90 of the Code, he may be allotted a site extending to one guntha or with the sanction of the Deputy Commissioner, a larger area. If there is more than one such applicant so entitled the Tahsildar shall allot to the applicant who applied first, unless he considers there are good reasons for allotting to one of the other applicants.

22. Where there is more than one applicant, who is not entitled to a site free of land-revenue, or the site is more than one guntha the site shall be put up to auction by the Tahsildar, unless he thinks there are good reasons for allotting it to one of the applicants, as for example, where the land adjoins a plot already in such applicant's possession.

23. No ground rent shall be reserved, but that does not affect the liability of land in the village site to assessment at a future date under section 49 of the Code.

24. When a site is to be auctioned a notice in Form VIII shall be posted at the *chaudi* and at some place close to the site at least fifteen days before the sale is held and proclamation of the sale shall be made by beat of drum in the village on the day of sale.

25. The sale shall be held in the village by the Tahsildar or Naib-Tahsildar.

26. The highest bidder shall deposit immediately after the sale is closed 25 per cent of his bid as earnest money, the balance being paid within fifteen days. In default of payment of the balance within the prescribed period the deposit shall be forfeited to Government and on reauction of the site the deficit, if any, shall be recovered from the defaulting purchaser as laid down in rule 11. On full payment of the premium the purchaser shall be given a certificate in Form V and shall be placed in possession.

C.—For building sites in municipal towns

NAZUL RULES

27. These rules shall be called the Nazul Rules and shall apply to every municipal town and to any other town* to which they may be extended by the orders of the Governor in Council.

*The Nazul Rules have been extended to the following non-municipal towns and villages.

*Amraoti district.**Buldana district.*

Survey and
Settlement
Department
Order
No. 1433-XVI,
dated the 28th
February 1930.

Badnera.
Chandur Railway.
Dhamangaon.
Morsi.
Warud.
Chandur Bazar.
Daryapur.
Anjangaon Surji.

Chikhli.
Deulgaon Raja.
Lonar.
Paturda.
Pimpalgaon Kale.
Matargaon Buzrug.
Nandura.

*Akola district.**Yeotmal district.*

Telhara Buzrug.
Adgaon Buzrug.
Balapur.
Patur.
Wadegaon.
Risod.
Mangrul Pir.

Babulgaon.
Darwha.
Pusad.
Umerkhed.
Pandharkawada.
Ghatanji.
Ralegaon.

28. Nazul land is unalienated land which is used either for building purposes or for purposes of public convenience such as roads, markets or recreation grounds or which is likely to be used for such purposes in the future. It does not include occupied survey numbers or plot numbers of areas which have been diverted under section 58 of the Code from agricultural to non-agricultural use (such lands being known as converted lands).

29. At regular settlements all Government plots or sites which are likely to be valuable for any special reason, such as their situation near a line of railway or the like, or which in any scheme of development have been set aside as specially valuable, will be recorded by the Settlement Officer in consultation with the Deputy Commissioner as reserved; and the disposal of all such plots shall be subject to the sanction of the Governor in Council upon such special terms as may be decided for each plot. The Deputy Commissioner shall maintain a list of these plots and, with the approval of the Governor in Council, may alter it as the changing circumstances of the town map demand.

30. Plots available for building purposes and not reserved shall be divided into the following three classes:—

- (1) Plots measuring 2,500 sq. ft. or over.
- (2) Plots measuring less than 2,500 sq. ft. but more than 900 sq. ft.
- (3) Plots measuring 900 sq ft. or less.

Any plot, however small, which forms an addition to an existing plot will take the classification of the main plot, unless the Deputy Commissioner decides that with the addition the main plot should be raised in class.

A layout of plots available for building purposes shall be prepared by the Deputy Commissioner in consultation with the municipal committee and no plot shall be given out except in accordance with this layout. Such layout may be modified from time to time by the Deputy Commissioner in consultation with the municipal committee.

31. Applications for nazul sites shall be made to the Deputy Commissioner or to an Assistant Commissioner, 1st grade, hereinafter called the Nazul Officer, appointed by him in this behalf.

32. The Nazul Officer may, for reasons to be recorded in writing, reject the application or direct the applicant to make such modification in the boundaries of the plot as he thinks fit.

32-A. If the application is not rejected, the applicant shall be required under proviso (i) to section 53, to submit for the approval of the Nazul Officer a plan in duplicate showing the plinth area and position on the plot of the buildings proposed to be erected and an estimate of their cost, provided that in the case of lands situated outside civil station areas, the requirements of the said proviso may be wholly or partly dispensed with.

33. When the Nazul Officer considers that the plot may be granted he shall consult the municipal committee, sending it a copy of the plan of the plot proposed to be granted.

If there is any difference of opinion between the municipal committee and the Nazul Officer the latter shall refer the case to the Deputy Commissioner whose orders shall be final. In other cases, and in cases where no reply is received from the municipal committee within two months, the Nazul Officer shall proceed to dispose of the plot in accordance with these rules.

34. All nazul-plots shall be disposed of by public auction except when in any particular case the Deputy Commissioner thinks there is good reason for granting a plot without auction. In such case the price fixed for the plot shall not be less than half the freehold market value of the plot, and if the plot is of class (1) or (2), Commissioner's sanction shall be obtained by a reference in Form IX or X.

35. Nazul plots shall be auctioned subject to an upset price calculated in accordance with the scale given below. The Local Government may sanction lower rates in particular localities or for particular plots:

Provided that if the Deputy Commissioner thinks that there is any circumstance which will interfere with free bidding for any

*Amraoti district.**Buldana district.*

Survey and
Settlement
Department
Order
No. 1433-XVI,
dated the 28th
February 1930.

Badnera.
Chandur Railway.
Dhamangaon.
Morsi.
Warud.
Chandur Bazar.
Daryapur.
Anjangaon Surji.

Chikhli.
Deulgaon Raja.
Lonar.
Paturda.
Pimpalgaon Kale.
Matargaon Buzrug.
Nandura.

*Akola district.**Yeotmal district.*

Telhara Buzrug.
Adgaon Buzrug.
Balapur.
Patur.
Wadegaon.
Risod.
Mangrul Pir.

Babulgaon.
Darwha.
Pusad.
Umerkhed.
Pandharkawada.
Ghatanji.
Ralegaon.

28. Nazul land is unalienated land which is used either for building purposes or for purposes of public convenience such as roads, markets or recreation grounds or which is likely to be used for such purposes in the future. It does not include occupied survey numbers or plot numbers of areas which have been diverted under section 58 of the Code from agricultural to non-agricultural use (such lands being known as converted lands).

29. At regular settlements all Government plots or sites which are likely to be valuable for any special reason, such as their situation near a line of railway or the like, or which in any scheme of development have been set aside as specially valuable, will be recorded by the Settlement Officer in consultation with the Deputy Commissioner as reserved; and the disposal of all such plots shall be subject to the sanction of the Governor in Council upon such special terms as may be decided for each plot. The Deputy Commissioner shall maintain a list of these plots and, with the approval of the Governor in Council, may alter it as the changing circumstances of the town map demand.

30. Plots available for building purposes and not reserved shall be divided into the following three classes:—

- (1) Plots measuring 2,500 sq. ft. or over.
- (2) Plots measuring less than 2,500 sq. ft. but more than 900 sq. ft.
- (3) Plots measuring 900 sq. ft. or less.

Any plot, however small, which forms an addition to an existing plot will take the classification of the main plot, unless the Deputy Commissioner decides that with the addition the main plot should be raised in class.

A layout of plots available for building purposes shall be prepared by the Deputy Commissioner in consultation with the municipal committee and no plot shall be given out except in accordance with this layout. Such layout may be modified from time to time by the Deputy Commissioner in consultation with the municipal committee.

31. Applications for nazul sites shall be made to the Deputy Commissioner or to an Assistant Commissioner, 1st grade, hereinafter called the Nazul Officer, appointed by him in this behalf.

32. The Nazul Officer may, for reasons to be recorded in writing, reject the application or direct the applicant to make such modification in the boundaries of the plot as he thinks fit.

32-A. If the application is not rejected, the applicant shall be required under proviso (i) to section 53, to submit for the approval of the Nazul Officer a plan in duplicate showing the plinth area and position on the plot of the buildings proposed to be erected and an estimate of their cost, provided that in the case of lands situated outside civil station areas, the requirements of the said proviso may be wholly or partly dispensed with.

33. When the Nazul Officer considers that the plot may be granted he shall consult the municipal committee, sending it a copy of the plan of the plot proposed to be granted.

If there is any difference of opinion between the municipal committee and the Nazul Officer the latter shall refer the case to the Deputy Commissioner whose orders shall be final. In other cases, and in cases where no reply is received from the municipal committee within two months, the Nazul Officer shall proceed to dispose of the plot in accordance with these rules.

34. All nazul plots shall be disposed of by public auction except when in any particular case the Deputy Commissioner thinks there is good reason for granting a plot without auction. In such case the price fixed for the plot shall not be less than half the freehold market value of the plot, and if the plot is of class (1) or (2), Commissioner's sanction shall be obtained by a reference in Form IX or X.

35. Nazul plots shall be auctioned subject to an upset price calculated in accordance with the scale given below. The Local Government may sanction lower rates in particular localities or for particular plots:

Provided that if the Deputy Commissioner thinks that there is any circumstance which will interfere with free bidding for any

plot, he may fix the upset price at half the freehold market value of the plot:

Provided further that the Deputy Commissioner may, with the sanction of the Commissioner, reduce the upset price for class (3) plots in the poor quarters of a town.

Class and name of town	Class				
	Class (1)			Class (2)	Class (3)
	For first 2,500 sq. ft.	For area in excess of 2,500 up to 5,000 sq. ft.	For area above 5,000 sq. ft.		
	Per 100 sq. ft.	Per 100 sq. ft.	Per 100 sq. ft.	Per 100 sq. ft.	Per 100 sq. ft.
1	2	3	4	5	6
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
<i>Class I.</i>					
Amraoti City, Amraoti Camp, Akola, Khamgaon, Shegaon, Malkapur and Yeotmal.	8 0 0	4 0 0	2 0 0	8 0 0	4 0 0
<i>Class II.</i>					
Akot, Karanja, Basim, Murtizapur, Buldana, Badnera and Dattapur-Dhamangaon.	4 0 0	2 0 0	1 0 0	4 0 0	2 0 0
<i>Class III.</i>					
All other towns	2 0 0	1 0 0	0 8 0	2 0 0	1 0 0

36. The land-revenue to be paid on a plot shall be calculated at one anna per rupee on the premium bid in the auction or the price fixed by the Deputy Commissioner under rule 34 as the case may be, and will be liable to revision at settlement:

Provided that, in towns in which there has been a nazul survey and settlement, if the land-revenue so calculated together with the land-revenue assessed on any plot to which it forms an addition is less than Rs. 2, the plot may be purchased outright by payment of 20 times the revenue in addition to the premium. Such a plot shall be held revenue free in perpetuity unless it forms an addition to a plot held on other terms in which case it shall be held on the same terms as the main plot.

FORM I

[Referred to in rule 2 under section 53, etc.]

Notice of application for land for agricultural purposes.

In the Court of the_____

Class No._____

Case No._____

Whereas_____has applied for occupant's rights in the fields, together with the trees standing thereon specified below, any other person who may desire to acquire occupant's rights in the said land should apply to the Tahsildar through the patel within 15 days of the date of publication of this notice:—

Village	Survey Number	Area	Assessment
(1)	(2)	(3)	(4)

(Sd.)

Tahsildar.

Dated_____19_____

FORM II

[Referred to in rule 5 under section 53, etc.]

Certificate of grant of occupant's right in villages transferred from the Melghat.

In the Court of the_____

Class No._____

Case No._____

It is hereby certified that_____has been granted occupant's rights in survey number_____measuring_____acres _____gunthas, assessment Rs._____as._____, situated in the village of_____taluq_____subject to the provisions of section 66 of the Berar Land Revenue Code, viz., the land—

- (1) shall be transferable by lease for agricultural purposes only; provided that it may not be continuously alienated for a period exceeding one year, in all;
- (2) shall not be transferable in any other manner without the previous sanction of the Sub-Divisional Officer, given in accordance with rules made under the Code;
- (3) shall not be liable to any decree or order for sale or foreclosure, and shall not be liable to be attached or sold in execution of any decree or order except in accordance with the provisions of this Law, and shall not vest in a Court or in a receiver under the Provincial Insolvency Act, 1920, or under section 51 of the Code of Civil Procedure, 1908.

(Sd.)

Tahsildar.

FORM III

[Referred to in rule 7 under section 53, etc.]

Notice of sale of land for agricultural purposes.

In the Court of the_____

Class No._____ Case No._____

Notice is hereby given that occupant's right in the fields, together with the trees standing, thereon specified below, will be sold by auction at_____at midday on the_____

Village and survey number	Area	Assessment	Trees	Upset price	Remarks
1	2	3	4	5	6

(Sd.)

Tahsildar.

FORM IV

[Referred to in rules 5 and 13 under section 53, etc.]

Certificate of grant of occupant's rights in land for agricultural purposes.

In the Court of the_____

Class No._____ Case No._____

It is hereby certified that_____has been granted occupant's rights for agricultural purposes in the land specified below situated in the village of_____taluq_____on payment of a premium of Rs._____. The land shall be held by the occupant and his heirs and assigns subject to the provisions of the Berar Land Revenue Code :—

Survey number and sub-division number	Area	Assessment
1	2	3

(Sd.)

FORM IV (a)

[Referred to in rule 15 under section 53, etc.]

Register of sites available for building purposes in the village of _____

Serial No.	Dimension of the site	Number and description of the site with boundaries	Remarks
1	2	3	4

FORM V

[Referred to in rules 17 and 26 under section 53, etc.]

Certificate of grant of occupant's rights in a building site in the village site.

In the Court of the _____
 Class No. _____ Case No. _____

It is hereby certified that _____ has been granted occupant's rights in the plots specified below, and situated within the village site of the village of _____ taluq _____ on payment of a premium of Rs. _____.

This site shall be held by the occupant and his heirs and assigns subject to the provisions of the Berar Land Revenue Code, 1928 :—

Boundaries of the plots	Area	Dimensions
1	2	3

(Sd.)

Revenue patel.

(Sd.)

Tahsildar.

(Sd.)

Sub-Divisional Officer.

FORM VI

[Referred to in rule 18 under section 53, etc.]

Register of sites allotted for building purposes in the village
site of _____ *taluk* _____

Serial No. or Register No.	Area allotted with full dimen- sions	Descrip- tion of site with bound- aries	Names of persons to whom the site is allotted	No. and date of the orders allotting the site	Condition, if any, and purpose for which the site is allotted	Date on which possession was given	Re- marks.
1	2	3	4	5	6	7	8

FORM VII

[Referred to in rule 19 under section 53, etc.]

Notice of application for land for building purposes.

In the Court of the _____

Class No. _____ Case No. _____

Notice is hereby given that _____ has
 applied for occupant's rights in the building site specified below
 situated in the village site of _____
 Any person who wishes to claim the site should apply in writing
 to the Tahsildar within 30 days of the publication of this
 notice :—

Boundaries of the land	Area	Dimensions
1	2	3

(Sd.)

FORM IX

[Referred to in rules 34 and 40 under section 53, etc.]

*Application for sanction to grant of occupant's rights in
Nazul land. (New plots.)*

1. Name of town.

2. Details and area of plot.

3. Name of applicant.

4. Name of highest bidder.

5. Upset price.

6. Auction premium.

7. Assessment.

8. Recommendation by the Deputy Commissioner—

has applied for———sq. ft. of land marked———
 on the accompanying map from nazul plot No.———for
 building purposes. The municipal committee was consulted
 on———and has ^{no objection to the grant of occupant's rights}
 within two months

The land was put to auction and knocked down for Rs.———
 in favour of———, who was the highest bidder
 The premium offered is reasonable. Grant of occupant's rights
 in favour of———on the above terms is recommended.

Deputy Commissioner.

9. Orders of the Commissioner—

FORM X

[Referred to in rule 34 under section 53. etc.]

*Application for sanction to grant of occupant's rights in
nazul land. (Encroachments.)*

1. Name of town.

2. Details and area of plot.

3. Name of encroacher.

4. Upset price.

5. Price fixed.

6. Assessment.

7. Recommendations by the Deputy Commissioner—

has encroached on _____ sq. ft. of land
marked _____ on the attached map from nazul
plot No. _____ and taken it into occupation. The en-
croached area adjoins the house of the encroacher and is useful
to him alone. He is willing to become occupant on premium of
Rs. _____ and assessment of Rs. _____. The
premium offered is reasonable. The municipal committee was
consulted on _____ and has ^{no objection}
~~not replied within two months~~
Grant of occupant's rights as above is recommended.

Deputy Commissioner.

8. Orders by the Commissioner—

Notice of sale of nazul land.

Notice is hereby given that occupant's rights in the nazul land specified below and situated within the limits of _____, will be sold by auction at _____ at _____ o'clock on the _____

Sheet and plot No.	Area	Description and boundaries of the land	Upset price
1	2	3	4

Nazul Officer.

Dated _____ 19 .

[Referred to in rule 41 under section 53, etc.]

The grant is subject to the provisions of the Berar Land Revenue Code, 1928, and the rules made thereunder, and to the condition that the occupant shall commence to build within _____ months from this date and shall within _____ months from the said date complete the building costing not less than Rs. _____.

Sheet and plot No.	Area	Description and bound- aries of the land	Date on which land revenue will be liable to revision	Particulars of easements permitted	Number of traverse marks for the maintenance and repair of which occupant is responsible
1	2	3	4	5	6

Nazul Officer.

The occupant.

54. (1) The person who acquires the right to occupy land under section 53 is called an occupant of such land, and shall hold it in accordance with the provisions of this Law.

(2) All persons who, prior to the commencement of this Law, have been granted rights in unalienated agricultural land under the style of "occupant", or have been granted or have held rights in unalienated non-agricultural land under the style of "occupant" or under leases which entitle them to hold in perpetuity, shall be deemed to be occupants within the meaning of this section, and all restrictions hitherto imposed on their rights shall henceforth be of no effect in so far as they may be inconsistent with the provisions of this Law.

Lessees from Government.

55. (1) The provisions of section 53 and section 54 shall not apply to—

- (a) land situated in the bed of a river ;
- *(b) land which the Governor in Council proposes to grant on favourable terms for the promotion of religious, charitable, educational, public or social purposes ;
- (c) land given out to persons on the fair assessment on condition that it shall be used only for grazing for the village cattle ;
- (d) land given out for temporary purposes and for limited periods, or for mining and purposes subsidiary thereto, referred to in sub-section (2) of section 44, or for industrial and commercial purposes under the statutory rules contained in Government of India, Finance and Commerce Department, resolution No. 933-Ex., dated the 20th February 1894, as subsequently amended.

(2)†

(3) The Governor in Council may delegate any of his powers to grant land under this section to the Commissioner or Deputy Commissioner, and may make rules for their guidance in the exercise of their delegated powers, and prescribing conditions on which land granted under this section shall be held.

(4) All persons holding land granted under this section shall hold in accordance with the terms of the grant,

*Amended by Government of India, Foreign and Political Department, Notification No. 82-I, dated the 22nd February 1933.

†General adaptations.

which shall be deemed to be a grant within the meaning of the Crown Grants Act, 1895.

Such persons are called lessees from Government or lessees from the Crown.

RULES REGARDING CONDITIONS ON WHICH LAND GRANTED UNDER SECTION 55 MAY BE HELD

1. Culturable land in the bed of rivers shall be leased by auction for the term of one year or for such period not exceeding five years as the Deputy Commissioner may prescribe. Auctions shall be held under the orders of the Tahsildar and the premium bid shall be the land-revenue payable annually during the term of the lease.

2. When the land is granted on favourable terms under section 55 (1) (b) of the Code, the grant shall be subject to the following conditions in addition to any others that may be prescribed by the Governor in Council in individual cases:—

(1) That the grant shall be liable to be resumed by Government, if used for other than the specific purpose or purposes for which it is granted;

(2) that should the grant be at any time resumed by Government, the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or their present value, whichever is less, of any buildings erected or other works executed on the land by the grantees;

(3) that in the case of grant for an educational institution, such grant shall be liable to resumption, if the institution is not conducted to the satisfaction of Government; and

(4) that should the grant be resumed by Government in consequence of a breach of conditions on the part of the grantee, Government shall have the option of (a) taking over any buildings erected on the land on payment of their cost or present value, whichever is less, or (b) requiring the grantee to remove the buildings and to restore the land to its original condition within a reasonable period to be fixed by Government. Should the grantee fail to comply with the requisition the buildings shall lapse to Government:

Provided that in the case of land granted for purposes such as play-ground where the erection of any expensive building would be inconsistent with the object of the grant the condition shall be that the grant will be liable to resumption if buildings are erected without the sanction of competent authority.

3. Land given out on the fair assessment for grazing for the village cattle shall be held on the following conditions:—

(i) The land may not be brought under cultivation.

- (ii) The holder shall have the right to charge such grazing fees as he thinks fit.
- (iii) Any resident or cultivator of the village shall have the right to graze cattle on payment of fees.
- (iv) Residents and cultivators of the village shall have the same rights in trees and forest produce as in those growing in E class land.

If the holder commits any breach of these conditions or fails to pay the land-revenue on the due date, his lease may be cancelled.

4. The lease of an assessed grazing field may be cancelled on application made to the Tahsildar if a majority of persons grazing cattle in the field desire it. The Tahsildar's orders shall take effect from the 1st June following.

5. When the lease is cancelled or the holder dies or relinquishes his rights, his successor shall be appointed by the Tahsildar after consulting the wishes of persons grazing cattle in the field.

6. Should no one be willing to take the lease or should a majority of the people in the village declare that the land is not required for grazing, the Tahsildar shall direct the land to be recorded as H class.

7. The Deputy Commissioner is authorized to grant temporary leases under section 55 (1) (d) of the Code.

Occupant's
rights
heritable
and transfer-
able.

56. Subject to his personal law, the rights of an occupant shall be permanent and transferable and on his death shall pass by inheritance, bequest or survivorship, as the case may be.

Right of
occupant to
make improve-
ments.

57. An occupant of land held for the purpose of agriculture is entitled by himself, his servants, tenants, agents or other representatives to erect farm buildings, construct well or tanks, or make any other improvements thereon for the better cultivation of the land or its more convenient use for the purpose aforesaid.

Explanation.—For the purposes of this section “farm building” shall include a dwelling house inhabited by the occupant, his dependants or servants.

Diversion of
land.

58. (1) If an occupant of land held for any purpose wishes to divert his holding or any part thereof to any other purpose, he shall apply for permission to the Deputy Commissioner who may, subject to the provisions of this section and to rules made under this Law, refuse permission or grant it on such conditions as he may think fit.

(2) Permission to divert may be refused by the Deputy Commissioner only on the ground that the diversion is likely to cause a public nuisance.

(3) Conditions may be imposed on diversion for the following objects and no others, namely, in order to secure the public health, safety or convenience, or, in the case of land which is to be used as building sites, in order to secure that the dimensions, arrangement and accessibility of the sites are adequate for the health or convenience of occupiers or are suitable to the locality.

(4) If any land is diverted without notice being given to the Deputy Commissioner, the Deputy Commissioner on receiving information thereof may proceed in accordance with the provisions of sub-section (1) as if notice had been given, and he may also impose on the occupant of such land a penalty not exceeding one hundred rupees which may be recovered as an arrear of land-revenue.

RULES REGARDING THE GRANT OR REFUSAL OF PERMISSION FOR DIVERSION OF LAND

1. Permission to divert occupied agricultural land to building purposes shall be granted subject to the following conditions:—

- (i) The occupant shall be bound to level and clear the land sufficiently to render it suitable for building purposes and prevent insanitary conditions.
- (ii) No building shall be erected in a village with a population of more than 5,000 or a village adjoining a railway station, except in accordance with a layout sanctioned by the Deputy Commissioner who will consult the municipal committee if the land lies within municipal limits, or the sanitation committee or village panchayat if there is one.

2. The occupant may relinquish to Government any area reserved in the layout for roads or public purposes and shall thereupon be liable to pay premium and revenue calculated on the remaining area only.

3. If any portion of the land included in a survey number is classed in the survey papers as unculturable because it is occupied by a public road or public tank for irrigation or for drinking or domestic purposes or used for any other public purpose, permission to bring such portion of the land under cultivation or to divert it otherwise shall not be granted unless the road or tank thereon has ceased to exist or to meet the convenience of the public, or unless the land is no longer required for a public purpose. Permission to divert the remaining portion of the survey number may be granted subject to the condition that such diversion shall not adversely affect the utility of the excluded portion of the survey number.

- (ii) The holder shall have the right to charge such grazing fees as he thinks fit.
- (iii) Any resident or cultivator of the village shall have the right to graze cattle on payment of fees.
- (iv) Residents and cultivators of the village shall have the same rights in trees and forest produce as in those growing in E class land.

If the holder commits any breach of these conditions or fails to pay the land-revenue on the due date, his lease may be cancelled.

4. The lease of an assessed grazing field may be cancelled on application made to the Tahsildar if a majority of persons grazing cattle in the field desire it. The Tahsildar's orders shall take effect from the 1st June following.

5. When the lease is cancelled or the holder dies or relinquishes his rights, his successor shall be appointed by the Tahsildar after consulting the wishes of persons grazing cattle in the field.

6. Should no one be willing to take the lease or should a majority of the people in the village declare that the land is not required for grazing, the Tahsildar shall direct the land to be recorded as H class.

7. The Deputy Commissioner is authorized to grant temporary leases under section 55 (1) (d) of the Code.

Occupant's
rights
heritable
and transfer-
able.

56. Subject to his personal law, the rights of an occupant shall be permanent and transferable and on his death shall pass by inheritance, bequest or survivorship, as the case may be.

Right of
occupant to
make improve-
ments.

57. An occupant of land held for the purpose of agriculture is entitled by himself, his servants, tenants, agents or other representatives to erect farm buildings, construct well or tanks, or make any other improvements thereon for the better cultivation of the land or its more convenient use for the purpose aforesaid.

Explanation.—For the purposes of this section “farm building” shall include a dwelling house inhabited by the occupant, his dependants or servants.

Diversion of
land.

58. (1) If an occupant of land held for any purpose wishes to divert his holding or any part thereof to any other purpose, he shall apply for permission to the Deputy Commissioner who may, subject to the provisions of this section and to rules made under this Law, refuse permission or grant it on such conditions as he may think fit.

(2) Permission to divert may be refused by the Deputy Commissioner only on the ground that the diversion is likely to cause a public nuisance.

(3) Conditions may be imposed on diversion for the following objects and no others, namely, in order to secure the public health, safety or convenience, or, in the case of land which is to be used as building sites, in order to secure that the dimensions, arrangement and accessibility of the sites are adequate for the health or convenience of occupiers or are suitable to the locality.

(4) If any land is diverted without notice being given to the Deputy Commissioner, the Deputy Commissioner on receiving information thereof may proceed in accordance with the provisions of sub-section (1) as if notice had been given, and he may also impose on the occupant of such land a penalty not exceeding one hundred rupees, which may be recovered as an arrear of land-revenue.

Procedure where land is diverted without notice.

RULES REGARDING THE GRANT OR REFUSAL OF PERMISSION FOR DIVERSION OF LAND

1. Permission to divert occupied agricultural land to building purposes shall be granted subject to the following conditions:—

Notfn.
No. 113-2118-
XII, dated the
9th January
1930.

(i) The occupant shall be bound to level and clear the land sufficiently to render it suitable for building purposes and prevent insanitary conditions.

(ii) No building shall be erected in a village with a population of more than 5,000 or a village adjoining a railway station, except in accordance with a layout sanctioned by the Deputy Commissioner who will consult the municipal committee if the land lies within municipal limits, or the sanitation committee or village panchayat if there is one.

2. The occupant may relinquish to Government any area reserved in the layout for roads or public purposes and shall thereupon be liable to pay premium and revenue calculated on the remaining area only.

3. If any portion of the land included in a survey number is classed in the survey papers as unculturable because it is occupied by a public road or public tank for irrigation or for drinking or domestic purposes or used for any other public purpose, permission to bring such portion of the land under cultivation or to divert it otherwise shall not be granted unless the road or tank thereon has ceased to exist or to meet the convenience of the public, or unless the land is no longer required for a public purpose. Permission to divert the remaining portion of the survey number may be granted subject to the condition that such diversion shall not adversely affect the utility of the excluded portion of the survey number.

Explanation—"Public tank" in the above rule shall not include a tank which is used for irrigation only and waters land in the sole occupation of the occupant in whose survey number the tank lies, or when the right to cultivate the dry bed has been expressly conceded to the occupant.

4. The occupant of land held for the purpose of agriculture may remove earth, stone, kankar, sand, murrum or any other material for his own domestic or agricultural purposes and he may also, with the Tahsildar's permission, allow potters to remove earth, etc., for the purposes of their trade; provided that no excavation close to the village site shall be permitted.

5. All orders sanctioning diversion of land shall be communicated to the village officers and noted in the record-of-rights and the date of diversion shall also be entered in the jamabandi statement.

Procedure
where land is
diverted after
permission is
refused or in
contravention
of a condition.

59. (1) If any land is or continues to be diverted after permission has been refused or if any condition imposed under section 58 is contravened, the Deputy Commissioner may serve a notice on the occupant of the land concerned directing such occupant, within a reasonable period to be stated in the notice, to use the land for its original purpose or to observe the condition, and such notice may require the occupant to remove any structure, to fill up any excavation, or to take such other steps as may be required in order that the land may be used for its original purpose or that the condition may be satisfied.

(2) If the occupant fails, within the period stated in the notice, to take the steps ordered by the Deputy Commissioner, the Deputy Commissioner may himself take such steps or cause them to be taken, and any costs incurred in so doing shall be levied from the occupant as an arrear of land-revenue.

(3) If the occupant fails, within the period stated in the notice, to take the steps ordered by the Deputy Commissioner, or having taken the steps again diverts the land or contravenes the condition to which the notice related, or again diverts the land or contravenes such condition after the Deputy Commissioner has taken steps under subsection (2), the Deputy Commissioner may impose upon him a penalty not exceeding one hundred rupees, and where the diversion or the contravention of the condition is a continuing one, a further penalty, not exceeding ten rupees for each day during which the diversion or contravention is persisted in, and such penalties shall be recoverable as arrears of land-revenue.

(4) The Deputy Commissioner may also, on the application of an occupant and subject to rules made under this Law, summarily eject any person found in possession of any land which is being used for any purpose other than that for which it was last conferred by the Crown.

Ejectment of third party for diversion of land

RULES REGARDING THE EJECTMENT OF TRESPASSERS

1. An occupant whose land is being used by another person for any purpose other than that for which it was last conferred may apply to the Sub-Divisional Officer for ejectment of such person.

Notfn. No. 2310-1250-XII, dated the 18th July 1929.

2. The Sub-Divisional Officer, after such enquiry as may be necessary, may cause an order to be served on such person requiring him to vacate the land and remove any building or structure which has been erected thereon.

3. If such person fails to comply with the order, he shall be liable to a penalty not exceeding Rs. 100 and any building or structure erected by him may be removed by Government agency.

60. Subject to rules made under this Law, the occupant may relinquish his rights, that is, resign them in favour of the Crown, but subject to any rights, tenures, encumbrances or equities lawfully subsisting in favour of any person (other than the Crown or the occupant), by giving notice in writing to the Tahsildar before the thirty-first day of March in any year, or before such other date as may be prescribed in this behalf; and such relinquishment shall have effect from the close of the current revenue year :

Relinquishment.

Provided that no rights which extend over less than a whole survey number or sub-division of a survey number may be so relinquished.

RULES REGARDING RELINQUISHMENT

1. The notice of relinquishment to be given by the occupant to the Tahsildar under section 60 of the Code shall be in Form XIV and shall be endorsed by two respectable witnesses.

Notfn. No. 2310-1250-XI, dated the 18th July 1929.

2. It shall be the duty of the patwari to write such notice free of cost on request by the occupant.

3. The notice shall be presented to the patel who shall forward it without delay to the Tahsildar.

4. The Tahsildar after such enquiry as may be necessary shall, subject to the provisions of section 61 of the Code, cause the land to be recorded as H class or vacant building site, as the case may be, unless the Deputy Commissioner considers that it should be set aside for any public purpose.

FORM XIV

[Referred to in rule 1 under section 60.]

Notice of relinquishment of land.

To

THE TAHSILDAR, _____

I _____, inhabitant of the village of _____, taluq _____, hereby give notice that it is my intention to relinquish on the 31st March 19____ my rights in _____ survey No. _____, sub-division No. _____, area _____, assessment _____ situated in _____ the building site described below _____ in _____ taluq _____ of which I am the occupant.

Dated this _____ day of _____ 19____.

Witnesses—

(Sd.) _____

Disposal of
escheated and
relinquished
sub-divisions.

61. If any sub-division of a survey number is relinquished under section 60, the Deputy Commissioner shall offer the right to occupy such sub-division at such premium as he thinks fit to the occupants of the other sub-divisions of the same survey number, and, if there be competition among such occupants, he shall sell such right to the highest bidder amongst them. In the event of all such occupants refusing the same, the right shall be disposed of under section 53.

Disposal of way
relinquished
land.

62. If any person relinquishes his rights to land the way to which lies through other land retained by him, any future holder of the land relinquished shall be entitled to a right of way through the land retained.

Disposal of
intestate
holdings.

63. (1) If an occupant dies without known heirs, the Deputy Commissioner shall take possession of his holding, and may grant leases thereof for periods not exceeding one year.

(2) If, after the expiry of three years from the date on which the Deputy Commissioner took possession, no claimant has established his title the Deputy Commissioner may sell the deceased occupant's rights in the holding in the manner and subject to the conditions laid down in section 149, sub-section (1), and sections 150 to 162 so far as they are applicable.

(3) Notwithstanding anything contained in any Law for the time being in force a claimant who establishes his title in a holding which has been dealt with in accordance with the provisions of this section, shall be entitled only to the rents payable under sub-section (1) and the sale-proceeds realized under sub-section (2), less all sums due on the holding on account of land-revenue and the expenses of management and sale.

64. (1) Any person who unauthorizedly takes possession of any unoccupied land which has not been alienated or any land set apart for any special purpose, shall be liable to pay—

Penalties for unauthorizedly taking possession of land.

(a) if such land forms part of an assessed survey number, the assessment of the entire number for the whole period of his possession, and

(b) if such land *[does not form part of an assessed survey number], a fair assessment, for the said period, made in accordance with the provisions of section 51,

and shall also be liable, at the discretion of the Deputy Commissioner, to a penalty not exceeding ten rupees, or a sum equal to twenty times the amount of assessment payable by him for one year, if such sum be in excess of ten rupees, if he has taken possession of the land for purposes of cultivation, and not exceeding such limit as may be prescribed in rules made under this Law, if he has used it for any non-agricultural purpose.

(2) For the purposes of sub-section (1), possession for a portion of a year shall be counted as for a whole year.

(3) Any person unauthorizedly taking possession of any such land may be summarily ejected by the Deputy Commissioner; and any building or other structure erected thereon, if not removed after such written notice as the Deputy Commissioner may deem reasonable, and also any crop on the land shall be liable to forfeiture by order of the Deputy Commissioner.

(4) Any property so forfeited shall be disposed of as the Deputy Commissioner may direct; and the cost of removal of any structure, earthwork or material erected or placed upon the land and of all works necessary to restore the land to its original condition shall be recoverable as an arrear of land-revenue from the person who unauthorizedly took possession of the land.

* Government of India, Foreign and Political Department, Notification No. 698-I-B, dated the 18th December 1935.

RULES REGARDING THE ENQUIRY OF PENALTIES

Notfn.
No. 3179-XII,
dated the 9th
October 1929.

1. The following penalties are prescribed for the unauthorized appropriation for non-agricultural purposes of unoccupied unalienated land or land set aside for any special purpose :—

- (a) When the land is within the limits of a municipality or a village site—a penalty not exceeding double the market value of the land.
- (b) In other cases—a penalty according to the class of village as defined in rule 1 under section 50 (4) at a rate not exceeding—

	Rs.	
In villages of class I	.. 2,500	} per acre of the land unauthorizedly appropriated, and at the same rate proportionately for fractions of an acre.
In villages of class II	.. 1,500	
In villages of class III	.. 500	
In villages of class IV	.. 100	

Ejection of
person un-
authorizedly
in possession
of land.

65. Any person unauthorizedly taking or remaining in possession of any land—

- (a) to the use of which he has ceased to be entitled under any of the provisions of this Law, or
- (b) which is subject to the conditions of section 66, may be summarily ejected by the Deputy Commissioner.

Restriction of
rights of
transfer of
certain back-
ward classes
in the
Melghat.

66. (1) The Governor in Council may, by notification, apply the provisions of this section to land comprised in occupants' holdings and sites in the gaothan in the Melghat taluq as constituted in the year 1911 held by Gonds, Korkus and other aboriginal or backward castes or tribes.

(2) Land to which this section has been applied—

- (i) shall be transferable by lease for agricultural purposes only : provided that it may not be continuously alienated for a period exceeding one year in all ;
- (ii) shall not be transferable in any other manner without the previous sanction of the Deputy Commissioner, given in accordance with rules made under this Law ;
- (iii) shall not be liable to any decree or order for sale or foreclosure, and shall not be liable to be attached or sold in execution of any decree or order except in accordance with the provisions of this Law, and shall not vest

V of 1920.
V of 1908.

in a court or in a receiver under the Provincial Insolvency Act, 1920, or under section 51 of the Code of Civil Procedure, 1908, and

- (iv) shall be held on such other conditions regarding cultivation or the residence of the holder as the Governor in Council may prescribe by rules made under this Law.

RULES REGARDING TRANSFER OF HOLDINGS IN THE MELGHAT

In villages transferred from the Melghat taluq under Notification No. 440, dated the 29th August 1912, the Sub-Divisional Officer may permit a member of an aboriginal tribe or backward caste mentioned in Notification No. 1466-XII, dated the 20th April 1929—

- (a) to lease his holding for a period not exceeding ten years, if the lessee is a *bona fide* agriculturist and the land leased is either surplus land in a large holding or land which owing to some temporary disability or cause the lessor himself cannot conveniently cultivate; Notfn. No. 2310-1250-XII, dated the 18th July 1929, as amended by Notfn. No. 1874-1217-XII, dated the 25th June 1931.
- (b) to sell, mortgage, or make a gift of his holding, if the transferee is a *bona fide* agriculturist or a member of the transferor's family or the holding is one of which a right to transfer has been specifically recorded at settlement; and
- (c) in other cases, with the previous sanction of the Deputy Commissioner, to alienate his holding in any manner.

RESTRICTION OF RIGHTS OF TRANSFER OF CERTAIN BACKWARD CLASSES IN THE MELGHAT

In exercise of the powers conferred on him by section 66 of the Berar Land Revenue Code, 1928, the Governor in Council is pleased to apply the provisions of that section to land comprised in occupants' holdings and sites in the gaothan in the Melghat taluq as constituted in the year 1911, held by the following aboriginal tribes and backward castes:—

- | | |
|-------------|------------------------|
| (1) Korku. | (9) Banjari. |
| (2) Balai. | (10) Pardhan. |
| (3) Mahar. | (11) Moghia. |
| (4) Gond. | (12) Gosai. |
| (5) Bhil. | (13) Gowari. |
| (6) Gaolan. | (14) Korku-Christians. |
| (7) Nihai. | (15) Chamar. |
| (8) Gaoli. | (16) Bhuta. |
| | (17) Mang. |

Provided that the aforesaid provisions shall not apply to sites in the gaothan of villages transferred from the Melghat taluq under Notification No. 440, dated the 29th August 1912.

CHAPTER VII.—ALLUVION AND DILUVION

Alluvion and
diluvion in
unalienated
land.

67. (1) Alluvial land formed on any bank which adjoins unalienated land shall vest in the Crown for the purposes of the Province, but the occupant, if any, of the land adjoining such bank shall be entitled to the use of the alluvial land so added to his holding free from the payment of land-revenue during the current term of settlement, unless the area added to his holding exceeds one acre.

(2) When the area of alluvial land added to a holding exceeds one acre, and it appears to the Deputy Commissioner that the rights of an occupant in such land may, with due regard to the interests of the public convenience and public revenue, be disposed of, he shall offer such rights to the occupant of such holding at a premium which shall not exceed ten times the fair assessment of the land so formed. If the said occupant shall refuse the offer, the Deputy Commissioner may dispose of the land in accordance with the provisions of this Law.

(3) Where any unalienated holding is diminished in area by diluvion to an extent greater than one acre, the land-revenue payable on such holding shall be decreased.

Alluvion and
diluvion in
alienated
villages.

68. (1) In alienated holdings which consist of entire villages all newly-formed islands, abandoned river beds and alluvial land shall be deemed to be an addition to the holding and shall be held subject to the same privileges, conditions or restrictions as the holding itself, and no additional land-revenue shall be payable in respect thereof during the current term of settlement.

(2) The land-revenue payable on an alienated village shall not be liable to be reduced during the currency of a term of settlement by reason of diluvion.

Rights of
ante-alienation
tenants.

(3) Alluvial land formed on a bank which adjoins the holding of an ante-alienation tenant in a village which is not subject to the Berar Alienated Villages Tenancy Law, 1921, shall vest in the superior holder, but the tenant shall be entitled to the use of such land free from the payment of rent during the current term of settlement, unless the area added to his holding exceeds one acre.

(4) When the area of alluvial land added to such holding exceeds one acre the superior holder may offer it to the tenant, who, if he accepts it, shall hold it as part of his holding, subject to the same rights as he has in his holding, and at an increase of rent equal to the fair assessment on the land added to the holding and subject to the

4. When any change in area occurs owing to alluvion or diluvion, enquiry shall be made to ascertain whether there has been any corresponding accretion of alluvial land or loss by diluvion in the same or some other village.

5. When the Sub-Divisional Officer thinks that, alluvial land may usefully be set aside for a public purpose, he shall submit a report for the orders of the Deputy Commissioner.

6. Newly formed islands, abandoned river beds and alluvial lands to which the provisions of Chapter VII of the Code do not apply shall be treated as H class land or otherwise dealt with as the Deputy Commissioner may deem fit.

CHAPTER VIII.—LANDLORDS AND TENANTS

Status of
persons
paying rent
to landlord.

71. Where there is no satisfactory evidence of the capacity in which a person in possession of land, in respect of which he pays anything in money, kind or service to the landlord, receives, holds, or retains possession of the same, it shall be presumed that he is in possession as tenant.

Ante-alienation
tenants.

72. (1) A tenant who has personally or through his predecessors in title held land continuously in an alienated village or holding from a period anterior to the alienation or from the year 1875* on a rent equal in amount to the fair assessment shall be entitled to hold the land subject to the annual payment of rent equal in amount to the fair assessment on the land and free from any other charge on account of rent.

Such tenant is called an ante-alienation tenant.

Explanation.—"Alienation" means an alienation made by the Crown, or by a former Government.

(2) The rights of an ante-alienation tenant are permanent and transferable, and on his death shall pass by inheritance or survivorship in accordance with his personal law; and he shall not be ejected from his holding by his landlord as such for any cause.

(3) The rent of an ante-alienation tenant shall be a first charge on his holding.

Tenants of
antiquity.

73. (1) Where, by reason of the antiquity of a tenancy in an alienated village or holding, no satisfactory evidence of its commencement and of its period is forthcoming and there is no usage of the locality as to such period, the period shall, as against the landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and those who derive title under him.

*Inserted by Government of India, Foreign and Political Department, Notification No. 513-I-B, dated the 25th October 1934.

Such tenant is called a tenant of antiquity and his rights shall be heritable and transferable in accordance with his personal law.

Explanation.—"Antiquity" does not mean absolute antiquity, but means antiquity in reference to the difficulty of securing evidence.

(2) Such tenant shall, in the absence of any specific agreement, be entitled to hold at the rent payable or services renderable by the usage of the locality, or, if there is no such usage, at such rent as shall seem just and reasonable.

(3) The rent for the time being payable or the service for the time being renderable by such tenant shall, for the purposes of this section, be presumed to be just and reasonable till the contrary is proved.

(4) In determining what shall be considered a reasonable rent, a civil court shall not take into consideration as against such tenant the enhanced value of the property due to improvements effected by the tenant.

(5) When a civil court decrees the ejectment of such tenant on the ground of non-payment of rent, such court may consider whether the tenant has made improvements, and may pass a decree for ejectment, subject to the payment by the landlord of such sum as may be considered just and reasonable compensation for the unexhausted improvements :

Provided that no compensation shall be payable on ejectment for any improvement effected, without the written consent of the landlord, after the commencement of this Law.

(6) Nothing contained in this section shall affect the right of the landlord (if he has the same by virtue of agreement, usage or otherwise) to enhance the rent payable or services renderable by a tenant of antiquity up to a limit which shall, in the judgment of the civil court, be just and reasonable.

74. (1) Save as otherwise provided in this Law, when a tenant is in possession of land and no agreement exists relating to the period of his tenancy, such tenant shall be deemed to be an annual tenant holding from year to year and each year shall be the agricultural year. ^{Annual tenancy.}

(2) Such annual tenancy shall, in the absence of any special agreement in writing, require for its termination a notice in writing given by the landlord to the tenant, or

by the tenant to the landlord, at least three months, before the end of the agricultural year at the end of which it is intended that the tenancy should cease.

Enhancement
of rent.

75. The rent of a tenant holding otherwise than under an express agreement shall not be enhanced without notice in writing served by the landlord upon the tenant at least four months before the commencement of the agricultural year in which the enhancement is to take effect.

Ejectment of
tenants.

76. A tenant, other than an ante-alienation tenant may, in the absence of a written agreement to the contrary, be ejected by order of a civil court for non-payment of rent.

Exclusion of
izara villages.

77. The provisions of this chapter shall not apply to any village which is subject to the Berar Alienated Villages Tenancy Law, 1921.

CHAPTER IX.—REVENUE-SURVEY AND SETTLEMENT

Definitions of
“[revenue-
survey”,
“settlement”
and “terms
of settlement”]

78. The operations carried out in accordance with the provisions of this chapter in order to determine or revise the land-revenue payable on lands in any local area are called a “revenue-survey”.

The results of the operations are called a “settlement” and the period during which such results are to be in force is called the “term of settlement”.

Notification
of proposed
revenue-
survey.

79. (1) Whenever the Governor in Council thinks that a revenue-survey should be made of any local area, he shall publish a notification to that effect, and such local area shall be held to be under such survey from the date of such notification until the issue of a notification declaring the operations to be closed :

Provided that where the revenue-survey is to include lands situated in towns and held for purposes other than agriculture, such notification shall not be published until the proposals of the Governor in Council as to the fixation of land-revenue and the term of settlement for such lands have been published for objection in accordance with rules made under this Law.

(2) Such notification may extend to all lands generally in the local area or to such lands only as the Governor in Council may direct.

RULES REGARDING THE PUBLICATION OF PROPOSALS FOR A REVENUE-SURVEY OF TOWN LANDS

1. Proposals for a revenue-survey of non-agricultural town lands shall be published in the *Central Provinces Gazette*, with the intimation that any person objecting to the proposals may forward his objection in writing to the Secretary to Government, Survey and Settlement Department, within such period not being less than one month as the Governor in Council may prescribe and that any objection so made will receive the consideration of the Governor in Council. Notfn. No. 3429-1687-XII, dated the 6th November 1929.

2. Copies of the proposals shall be sent to the local body within whose jurisdiction the land lies and a sufficient number of copies in Marathi shall be prepared and distributed to the public of the town concerned.

3. Any objection received within the prescribed period shall be considered by the Governor in Council, before a notification directing the revenue-survey is published.

80. The Governor in Council may appoint a Settlement Commissioner who shall, subject to the control of the Governor in Council, control the operations of the revenue-survey. Settlement Commissioner

81. (1) The Governor in Council may appoint an Officer hereinafter called the Settlement Officer to be in charge of a revenue-survey, and as many Assistant Settlement Officers as he thinks fit. Settlement and Assistant Settlement Officers.

(2) All Assistant Settlement Officers appointed in any local area shall be subordinate to the Settlement Officer.

82. (1) The Governor in Council may invest any Settlement Officer or Assistant Settlement Officer with all or any of the powers of a Deputy Commissioner under this Law, to be exercised by him in such cases or classes of cases as the Governor in Council may direct. Powers of Settlement and Assistant Settlement Officers.

(2) The Governor in Council may invest any Assistant Settlement Officer with all or any of the powers of a Settlement Officer under this Law or any other enactment for the time being in force.

83. The Settlement Commissioner, a Settlement Officer and an Assistant Settlement Officer shall be deemed to be Revenue Officers for the purposes of Chapters III and IV and section 192, and for these purposes— Settlement Officers to be Revenue Officers for certain purposes.

(a) the Settlement Commissioner shall be deemed to be a Commissioner; and

(b) the Settlement Officer shall be deemed to be a Deputy Commissioner.

Settlement Officer may exclude any land from revenue-survey.

84. Subject to the orders of the Governor in Council the Settlement Officer may exclude from the revenue-survey any land to which it may not seem expedient that such survey should be applied.

Power to require assistance from landholders.

85. The Settlement Officer may, by special order or by general proclamation posted at the *chaudi*, call upon all holders of agricultural land in a village and other persons in possession thereof to assist in the measurement or classification of the lands to which the revenue-survey extends by furnishing flag holders and, in the event of a necessity for employing hired labour for this or other similar objects incidental to the operations, may assess the cost thereof with all contingent expenses, on the lands surveyed with the help of such hired labour, and the amount so assessed shall be recoverable as an arrear of land-revenue due on such lands.

Formation of survey numbers and villages.

86. Subject to rules made under this Law, the Settlement Officer may—

- (a) divide the lands to which the revenue-survey extends into survey numbers and group the survey numbers into villages; and
- (b) recognize existing survey numbers, reconstitute survey numbers, or form new survey numbers:

Provided that, except as hereinafter provided, no survey number comprising land used for agricultural purposes shall henceforth be made of less extent than a minimum to be prescribed for the various classes of land by rules made under this Law.

RULES REGARDING SURVEY NUMBERS AND VILLAGES

Notfn.
No. 3429-1687-
XII, dated the
29. November

1. Except as provided in the following rules, existing survey numbers shall be retained as they stand.

2. When the actual boundary of a survey number does not agree with that shown in the records, the records shall be corrected in accordance with the boundary as agreed on by the parties concerned, or as determined under section 122 or 123 of the Code, and rules thereunder.

3. No new survey numbers shall be formed except in the following cases:—

- (1) Land taken up for special purposes, such as public buildings, threshing floors, etc.;
- (2) waste land given out for cultivation;

10. On amalgamation the survey numbers of the largest inhabited village shall be retained and those of the other villages renumbered starting from the last number of the largest inhabited village, the cancelled numbers being shown in brackets below the new numbers.

Separate demarcation of land diverted or especially assigned.

87. Notwithstanding the provisions of section 86, when any portion of agricultural land is diverted under the provisions of section 58 to any non-agricultural purpose, or when any portion of land is specially assigned under section 42, or when any assessment is altered on any portion of land under sub-section (2) of section 50, the Settlement Officer may make such portion into a separate survey number or sub-division of a survey number.

Division of survey numbers into sub-divisions.

88. (1) The Settlement Officer may sub-divide survey numbers into as many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

(2) The division of survey numbers into sub-divisions and the apportionment of the assessment of the survey number amongst the sub-divisions shall be carried out in accordance with rules made under this Law and such rules may provide limits either of area or of land-revenue, or both, below which no sub-division shall be recognized :

Provided that the total amount of the assessment of any survey number shall not be enhanced during the term of settlement unless such assessment is liable to alteration under the provisions of this Law.

RULES REGARDING SUB-DIVISIONS OF SURVEY NUMBERS

Notfn. No. 3429-1687-XII, dated the 6th November 1929, as amended by

Notfn. No. 769-T-179-I, dated the 27th February 1930.

1. Every portion of a survey number which is held under a separate title shall be formed into a sub-division :

Provided that no sub-division shall be formed—

- (a) with an area of less than one guntha or land-revenue of less than one pice if the land is used for the purpose of agriculture;
- (b) with an area of less than 100 square feet or land-revenue of less than one anna if the land is used for any other purpose.

2. Alluvial land lawfully occupied by a person other than the occupant of the adjoining land shall be formed into a sub-division and included in the adjoining survey number.

3. Two or more adjoining sub-divisions in a survey number may be amalgamated when they are held by the same occupants under the same tenure.

5. Unless the Governor in Council otherwise directs no survey number shall be resurveyed, unless the boundary has changed by more than eight annas through the action of a nalla or river or from any other cause, or unless survey is necessary owing to the formation of sub-divisions.

6. All measurements of resurveyed survey numbers shall be entered in a field book, and no corrections shall be made in the old survey tipan books, but a reference shall be made in the old tipan book to the appropriate page in the field book.

Maps of such survey numbers shall be drawn to scale in a new mozni book, and a reference to it made in the old mozni book.

7. The unculturable area (pot-kharab) in each survey number recorded in the survey records shall be checked but need not be remeasured unless there appears to be some material change. After corrections the revised pot-kharab area shall be deducted from the area of the survey number before the assessment is calculated. The revised pot-kharab area in each survey number shall be entered in a statement in Form A and shall be sketched by eye on the map.

8. A road which is no longer used shall if it is included in occupied survey numbers be cancelled and the unculturable area reduced accordingly. If the road does not form part of a survey number, it shall be offered to the occupants of the adjoining survey numbers on payment of premium, or otherwise disposed of as the Settlement Officer may deem fit.

9. A road which has come into existence since the previous revenue-survey shall, if the Settlement Officer so directs, be measured and brought on the map; and if the road is included in occupied survey numbers, the necessary addition shall be made to the unculturable area in such survey numbers.

10. The revised assessment of each survey number shall be calculated and entered in the classer's register in Form B.

11. Where a portion of a survey number has been diverted to non-agricultural purposes the area and assessment of such portion shall be shown separately in the register.

12. The area and assessment of survey numbers and sub-divisions shall be entered in the classer's register and in the record-of-rights.

13. Topographical features, such as trees, wells, tanks, rivers, nallas, roads, footpaths, railway lines, temples and houses, shall be checked by eye and the necessary corrections made in the map. Points at which a topographical feature crosses the boundary of a survey number or sub-division shall be fixed by measurement.

14. When a survey number has been resurveyed the holders shall be required to erect boundary marks at the corners of the survey number so demarcated. The boundary marks of survey numbers not resurveyed need not be examined by the survey party.

15. Except along the boundary between Berar and the Bombay Presidency and Hyderabad State the boundary lines of adjoining villages shall be compared and any serious mistakes or discrepancies rectified after such survey as may be necessary. At the same time it shall be seen that topographical features crossing the village boundary are shown in the same position in the maps on either side of the village boundary.

16. The Settlement Officer shall examine the land set aside for special purposes in each village, and make such changes as appear desirable in the interests of the people of the village.

17. Converted land adjoining land to which the nazul rules have been or are being applied shall, if the local Government so directs, be excluded from the revenue survey of the taluq, and dealt with at the time of the revenue survey of the adjoining nazul land.

18. The village map shall be corrected in accordance with any changes made under these rules and shall show the revised survey number, boundaries, boundary marks and topographical features.

19. (1) Assessments, whether original or revised, fixed in accordance with section 96, shall be notified by the Settlement Officer or Assistant Settlement Officer or Sub-Divisional Officer in the manner hereafter prescribed.

Notfn. No.
302-XVI,
dated the 30th
March 1931.

(2) A notice in form C shall be posted in the *chaudi* of the village concerned and the date, time and place appointed in the notice for the public declaration of the assessments shall be proclaimed by beat of drum in the village concerned at least a fortnight prior to the date appointed for such declaration.

(3) At the time and place aforesaid, the assessment of each survey number shall be read over to the persons present and the term of settlement and the date of commencement of that term shall be explained.

(4) If any errors of the kind mentioned in section 102 are brought to the notice of the officer declaring the assessments, he shall correct them then and there.

(5) The officer declaring the assessments shall make an endorsement over his signature on the *akarband* as follows:—

Announced by me this day of 19 ,
at .

20. Corrections made in the area and assessment of a survey number at any time during the period of a settlement after announcement shall be entered in a statement in Form D.

21. The Settlement Commissioner may issue instructions for the guidance of the Settlement Officer in conducting a revenue survey.

90. (1) The Settlement Officer shall, in the case of every inhabited village ascertain and determine, with due regard to rights in lands, the area to be reserved for the

residence of the inhabitants or for purposes ancillary thereto, and such area shall be deemed to be the village site.

Right of agriculturists and others to house site free of land revenue.

(2) A building site of reasonable dimensions in the village site of an unalienated village shall not be liable to the payment of land-revenue if such site is occupied by an occupant *[of agricultural land], agricultural artisan, agricultural labourer, patel, patwari, village mahar or jaglia who holds land or works in such village or in a village usually cultivated from such village.

Grouping of villages for purposes of assessment.

91. For the purposes of assessment the villages of each taluq or part of a taluq comprised in the area to be assessed shall be formed into groups, and in forming such groups regard shall be had to physical features, agricultural and economic conditions, and trade facilities and communications; and a single scale of assessment rates shall be applied to all villages in the same group:

Provided that a taluq shall comprise not fewer than two groups.

All lands liable to assessment.

92. The Settlement Officer shall have power to make fair assessment on all lands whatsoever to which the revenue-survey extends, whether such lands are liable to the payment of land-revenue or not.

Principles of assessment.

93. (1) The fair assessment of all lands shall be calculated in accordance with the principles and restrictions set forth in this section.

(2) No regard shall be had to any claim to hold land on privileged terms or to demand from a tenant thereof any special rent.

(3) Regard shall be had in the case of agricultural land to the profits of agriculture, to the rents paid by tenants, to the sale prices of land and to the principal moneys on mortgages, and in the case of non-agricultural land to the value of the land for the purpose for which it is held.

(4) The fair assessment on land used for non-agricultural purposes shall not exceed 50 per centum of the estimated rental value of the land.

(5) Where an improvement has been effected at any time in any holding held for the purpose of agriculture

*Inserted by Govt. of India, Foreign and Political Department, Notification No. 82-I, dated the 22nd February 1933.

by or at the expense of the holder thereof, the fair assessment of such holding shall be fixed as if the improvement had not been made.

(6) Except for special reasons to be approved in each case by the Governor in Council, no increase in the fair assessment on land held for the purpose of agriculture shall be imposed in excess of the following scale, namely :—

- | | |
|---|--------------------------|
| (a) On a survey number... | One hundred per centum, |
| (b) On the total fair assessment of a village | Sixty-six per centum, |
| (c) On the total fair assessment of a group | Thirty-five per centum : |

Provided that no increase of such assessment exceeding thirty-five per centum on the total revenue of the group shall be sanctioned, except in the case of a group composed of villages which were previously subject to two or more scales of assessment rates and are, at the time of assessment, subject to the same scale of assessment rates ; and in all such cases the increase shall be reduced to an amount not exceeding thirty-three per centum for such period not exceeding fifteen years and in such manner as the Governor in Council may think fit :

Provided further that no increase in the fair assessment on a survey number, village or group, whereof the assessment has been twice revised at a survey-settlement or revenue-survey, shall be imposed in excess of sixty, forty and thirty per centum respectively.

(7) When, at a revenue-survey other than one governed by the second proviso to sub-section (6), the Governor in Council considers that the circumstances of a group justify the imposition of the maximum enhancement, the Settlement Officer shall make his calculations as if the rate of such maximum enhancement were thirty-three per centum, but if the result of his operation discloses an enhancement not exceeding thirty-five per centum the Settlement Officer shall not be bound to reassess the group.

94. (1) With effect from the commencement of this Law, the Governor in Council shall take steps to institute and shall cause to be constantly maintained, in accordance with rules made under this Law, an inquiry into the profits of agriculture and into the value of land used for agricultural and for non-agricultural purposes.

Inquiry into the profits of agriculture and the value of land.

(2) For the purpose of determining the profits of agriculture, the following elements shall be taken into account in estimating the cost of cultivation, namely :—

- (a) The depreciation of stock and buildings,
- (b) the money equivalent of the cultivators' labour and supervision,
- (c) all other expenses usually incurred in cultivation on the land which is under inquiry, and
- (d) interest on the cost of buildings and stock and on expenditure for seed and manure, and on the cost of agricultural operations paid for in cash.

(3) The Settlement Officer shall take into consideration the information collected in the course of this inquiry when framing his proposals for assessment rates.

Confirmation
of Settlement
Officer's pro-
posals for
assessment
rates.

95. (1) Where the revenue-survey relates to lands held for the purpose of agriculture, the Settlement Officer shall place his proposals for assessment rates before a local committee.

(2) Such local committee shall consist of all members of any local board having jurisdiction under the Central Provinces Local Self-Government Act, 1920, in any part of the local area to which the revenue-survey extends, and also such other members as the Governor in Council may, by general or special order, specify. IV of 1920.

(3) The Settlement Officer shall make a record of any proposals or criticisms made by the local committee, and shall submit such record, along with his final proposals for assessment rates, to the Governor in Council, who shall publish them for objection, and may confirm them with such alterations as he may think fit.

(4) Where the revenue-survey relates to lands held for purposes other than agriculture the Settlement Officer shall submit his proposals for assessment rates to the Governor in Council, who may, before confirming them, alter them as he thinks fit.

Determina-
tion of
assessments.

96. (1) On a holding consisting of unalienated land the assessment shall be the fair assessment as calculated on the assessment rates finally sanctioned under section 95.

(2) In alienated villages in which proprietary title has been conferred under the Waste Land Rules of 1865, the assessment on a village shall be half the total fair

assessments on the culturable lands in such village, as calculated on the assessment rates finally sanctioned under section 95.

(3) Before fixing the assessment on other alienated lands the Settlement Officer shall ascertain whether the terms of the grant made or conferred by the Crown are being observed. If he finds they are being observed he shall fix the assessment in accordance with the terms of the grant and of the assessment rates as finally sanctioned under section 95. If he finds they are not being observed he shall report the circumstances for the orders of the Governor in Council and shall fix the assessment in accordance with his orders.

(4) All assessments so made shall be subject to the limitations prescribed in section 93.

97. (1) When the assessment on any land has been fixed in accordance with section 96, notice thereof shall be given in accordance with rules made under this Law; and such notice shall be called the announcement of the settlement. Announce-
ment of
settlement.

(2) The assessment on any land, as finally announced under this section, shall be the land-revenue payable annually on such land during the term of the settlement unless it is modified in accordance with the provisions of this Law.

RULES REGARDING NOTICE OF ASSESSMENTS FIXED ON NON-AGRICULTURAL LANDS

1. Assessments, whether original or revised, on non-agricultural lands fixed in accordance with section 96 shall be notified by the Settlement Officer or Assistant Settlement Officer in the manner hereafter prescribed. Survey and
Settlement
Department
Notf. No. 169-
XVI, dated the
18th February
1931.

2. (1) A notice in Form A shall be posted at the local Settlement Office; and the date, time and place appointed in the notice for the public declaration of the assessments shall be proclaimed by beat of drum in the town concerned at least ten days prior to the date appointed for such declaration.

(2) At the time and place aforesaid the assessments concerning the persons who may be present and who may so desire shall be read over to them and the term of settlement and the date of commencement of that term shall be explained.

3. If any errors of the kind mentioned in section 102 are brought to the notice of the officer declaring the assessments he shall correct them then and there.

4. The officer declaring the assessments shall make an endorsement over his signature on the record of rights as follows:—

Announced by me this day of 19 ..
at

FORM A

*Notice of declaration of assessment on non-agricultural lands
under settlement in the town of*

In accordance with the rules made under section 97 (1) of the Berar Land Revenue Code, 1928, notice is hereby given that the assessments on non-agricultural lands in the town of..... fixed in accordance with section 96 of the said Code in the course of the settlement operations undertaken in pursuance of the Central Provinces Gazette Notification No....., dated thewill be publicly declared at.....on the.....day of.....at..... a.m./p.m

2. All occupants or their agents should be present at the time and place aforesaid to hear the assessments declared.

3. The record showing the assessments will be open to inspection to any occupant or his agent between the hours of.....and.....on all working days from the date of this notice to the date of declaration abovementioned, at the office of.....

4 The term of settlement has been fixed to be.....years. It will commence from the..... Under section 97 (2), the assessments to be announced will be the land revenue payable annually on the lands during the term of the settlement unless it is modified in accordance with the provisions of the Code. The assessments shall be so payable whether the persons liable to pay them are present or not at the time of their declaration.

Date.....

.....

Signature of officer.

FORM A

[Referred to in rule 7 under sections 89, 97 and 105.]

Pot-Kharab Statement

Sur- vey No.	Total area	Pot-kharab area	Remaining area	Details of pot-kharab						Remarks
				Unculturable area	Nalla	Road	Well	Temple	Other	
1	2	3	4	5	6	7	8	9	10	11

FORM B

[Referred to in rule 10 under sections 89, 97 and 105.]

Classification Register

Village _____, Pargana _____, taluq _____, Revision Survey 19 -19 .

Sur- vey No.	Kind	Total area	Minus pot- kharab	Remain- ing area	Classi- fication in annas	Added for special advan- tage	Deduct- ed for special disad- vantage	Total annas	Dis- tance in miles from the village	Rate	De- duced assess- ment	Old assess- ment	Assess- ment fixed	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

FORM C

[Referred to in rule 19 under section 97.]

Notice of declaration of assessments on agricultural lands under settlement in the village of Notfn. No. 302-XVI, d. 30-3-1931.

In accordance with the rules made under section 97 (1) of the Berar Land Revenue Code, 1928, notice is hereby given that the assessments on agricultural lands in the village of..... taluq.....fixed in accordance with section 96 of the said Code in the course of the settlement operations undertaken in pursuance of the Central Provinces Gazette Notification No....., dated the..... day of.....19 , will be publicly declared at.....on the.....day of..... at.....
a. m.
p. m.

2. All occupants or their agents should be present at the time and place aforesaid to hear the assessments declared.

3. The records showing the assessments will be open to inspection to any occupant or his agent between the hours of.....and.....on all working days from the date of this notice to the date of declaration abovementioned at the office of.....

4. The term of settlement has been fixed to be.....years. It will commence from the.....19 . Under section 97 (2), the assessments to be announced will be the land revenue payable annually on the lands during the term of the settlement unless it is modified in accordance with the provisions of the Code. The assessments shall be so payable whether the persons liable to pay them are present or not at the time of their declaration.

.....
Signature of officer.

Date

To

The Patel and Patwari,

Village.....

You are hereby ordered to attach this notice in the *chaudi* and to proclaim by beat of drum the contents in the village and to remain present with the occupants at the camp.

.....
Signature of officer.

98. The term of a settlement shall commence from the beginning of the revenue year next following the date of announcement or from the expiry of the previous term of settlement, whichever is later. Introduction of settlement.

99. During the first year of the term of settlement any occupant who is dissatisfied with the new assessment shall, on relinquishing his rights in his holding in the manner prescribed by section 60 on or before the 31st March, receive a remission of any increase imposed thereby. Remission of enhancement to occupant who relinquishes.

100. The term of a settlement shall be fixed by the Governor in Council, and shall not be less than thirty years : Term of settlement.

Provided that—

*(i) any assessment may be reduced, during the term of the settlement in such manner, to such extent and for such period as the Governor in Council thinks fit.

(ii) when the circumstances of a local area are such that a fresh assessment is, in the opinion of the Governor in Council, inexpedient, or when the completion of a new assessment has from any cause been delayed, the Governor in Council may, at the expiration of the term of settlement, extend it with reference to such local area for such further period as he may think fit ;

(iii) for agricultural land the term of settlement as finally fixed under this section shall not exceed thirty-five years.

(iv) the term of the settlement in the Melghat taluq may be less than thirty years.

101. Where settlement operations are closed under section 79 all applications and proceedings then pending before the Settlement Officer shall be transferred to the Deputy Commissioner who shall have the powers of a Settlement Officer for their disposal and in the exercise of such powers he shall be subordinate to the Settlement Commissioner. Power of Deputy Commissioner to complete unfinished proceedings.

102. The Deputy Commissioner may at any time during the term of a settlement correct any error in the area or assessment of any holding due to mistake of survey or arithmetical miscalculation : Power of Deputy Commissioner to correct errors.

Provided that no arrears of land-revenue shall become payable by reason of such correction.

Power of Deputy Commissioner during the term of a settlement.

103. During the term of a settlement the Deputy Commissioner shall exercise the powers of a Settlement Officer under sections 85, 86, 87, 88 and 90, and in the exercise of such powers he shall be subordinate to the Commissioner.

Power to grant power of a Settlement Officer during the term of a settlement.

104. The Governor in Council may, during the term of a settlement, invest any Revenue Officer with all or any of the powers of a Settlement Officer under this Chapter, within such area and subject to such restrictions, and for such period as he may think fit.

Power to make rules.

105. Rules may be made under this Law regulating generally the conduct of a revenue-survey.

CHAPTER X.—LAND RECORDS

Superintendents and Assistant Superintendents of Land Records.

106. (1) The Governor in Council may appoint to each district as many persons as he thinks fit to be Superintendents of Land Records and Assistant Superintendents of Land Records and may delegate to the Settlement Commissioner, Commissioner or Deputy Commissioner his power of appointing them.

(2) Superintendents of Land Records and Assistant Superintendents of Land Records shall be deemed to be Revenue Officers for the purposes of Chapter III.

Revenue Inspectors and measurers.

107. (1) The Governor in Council may appoint to each district as many persons as he thinks fit to be revenue inspectors and measurers, to supervise the preparation and maintenance of the land records, and may delegate to the Settlement Commissioner, Commissioner or Deputy Commissioner his power of appointing them.

Formation of revenue inspectors' circles.

(2) The Deputy Commissioner may divide each taluq into revenue inspectors' circles, may alter the limits of any existing circle, and may create new or abolish existing circles.

Record-of-rights.

108. A record-of-rights shall be prepared and maintained in every village and such record shall include the following particulars :—

(a) the names of all persons, other than tenants, who are holders of land ;

(b) the names of all ante-alienation tenants, tenants of antiquity and permanent tenants ;

- (c) the nature and extent of the respective interests of such persons and the conditions or liabilities, if any attaching thereto;
- (d) the rent or land-revenue, if any, payable by such persons;
- (e) such other particulars as may be prescribed by rules made under this Law.

RULES REGARDING RECORD OF RIGHTS

1. The record of rights shall be prepared in the following forms:—
 - (a) For unalienated villages in Form A.
 - (b) For alienated villages, which were leased under the Waste Land Rules, 1865, and in which proprietary rights have been conferred on the lessee, in Forms B and C, and in other alienated villages in Forms BB, CC and O.
 - (c) For surveyed town lands in Form D.

Notfns.
No. 3379-1780-
XII,
d. 28-10-1929,
S. and S. Deptt.
Notfn.
No. 813-XVI,
l. 28-8-1930
and No 81-
XVII,
d. 9-4-1932.

2. In addition to the particulars mentioned in section 108, the record of rights shall contain—

- (a) in the case of unalienated villages and alienated villages leased under the Waste Land Rules, 1865, in which proprietary rights have been conferred on the lessee, particulars of the rights of tenants holding land under leases passed for a period of not less than five years for the redemption of debt, and
- (b) in the case of other alienated villages, particulars of the rights of tenants entitled to hold land, whether under leases or otherwise, for a period of not less than ten years, and particulars of communal rights over roads, burial grounds, cremation grounds, grazing lands, gaothan khalwadi lands and gaothan.

3. When the record of rights is about to be prepared in any village, the patwari or the Settlement Officer as the case may be shall cause notice thereof to be proclaimed by beat of drum throughout the village and shall post a copy of the notice at the *chaudi*.

4. Prior to the preparation of the fair copy of the record of rights, there shall be prepared a rough copy in which the patwari or the Settlement Officer as the case may be shall make, on such information as he can collect or from such reports as he may receive, all entries likely to be required for the fair copy.

5. If there is a dispute about any entry proposed to be made in the rough copy, the patwari shall leave such entry blank and shall record the particulars of the dispute in the register of disputed cases which shall be maintained in Form E.

6. Every entry in the rough copy shall be examined by the revenue inspector, or such other officer as may be deputed for

the purpose, and read out to all persons present. If any person interested admits the entry to be correct, the admission shall be noted in the remarks column. If there is any dispute, an entry shall be made in the register of disputed cases :

Provided that a notice shall be issued requiring the persons notified to appear and represent their interests—

- (a) in the case of town lands, to all persons likely to be interested in the property, and
- (b) in the case of land in alienated villages, other than those leased under the Waste Land Rules, 1865, in which proprietary rights have been conferred on the lessee, to all persons likely to be interested in the property as superior holders.

7. Any change occurring during the preparation of the record of rights shall be brought on the rough copy and shall be checked by a revenue officer not below the rank of a Naib-Tahsildar or such officers as may be authorized in this behalf by the Governor in Council.

8. Disputed cases shall be decided by a revenue officer not below the rank of a Naib-Tahsildar or such officers as may be authorized in this behalf by the Governor in Council.

9. A fair copy of the record of rights shall be prepared by the patwari and checked by the revenue inspector or such officers as may be authorized in this behalf by the Governor in Council.

10. When the record of any village is complete, the Sub-Divisional Officer, or in the case of town lands the Settlement Officer, shall issue a proclamation calling on all persons interested to appear on a specified date at a place in or near the village concerned and notifying that any such person may inspect the fair copy on application to the patwari or in the case of town lands on application at the town settlement office and may prefer objections to any entry therein.

11. On the date and at the place appointed the Sub-Divisional Officer, or the Settlement Officer, as the case may be, shall cause such portions of the record as the persons in attendance may desire to be read over in their presence and, after such further correction as may then be necessary, shall sign the record and add at the end a certificate that it has been duly approved and promulgated.

12. In addition to the measurement fees prescribed in rule 29, a fee of one rupee for each serial entry in the record of rights, shall be paid by the person whose name is entered in column 9 of Form A or Form D or column 8 of Form C or column 2 of Form BB or column 8 of Form CC and in return such person shall be given a certified copy of the entry :

Provided that—

- (i) where the person whose name is entered in column 9 of Form D, holds such a number of properties that the preparation of separate certified copies of the entries relating to those properties would in the

opinion of the Deputy Commissioner or Settlement Officer, entail unnecessary expense to that person, a joint certified copy of the entries or of such of the entries as can be put together conveniently, may be issued on payment of a fee not exceeding Rs. 10; this proviso shall not apply unless the properties to be included in the joint copy are contiguous and form a compact block; and

- (ii) a person, whose name is entered in column 11 of Form D, may be given a certified copy of the entry in the record of rights on payment of a fee of Re. 1.

13. The mutation register shall be maintained in the following forms by the patwari or in the case of surveyed towns by the town surveyor:—

For unalienated villages in Form F.

For alienated villages leased under the Waste Land Rules, 1865, in which proprietary rights were conferred on the lessee, in Forms G and H, and in other alienated villages, in Forms G, HH and II.

For surveyed towns in Form I.

14. Entries in the mutation register shall be certified in the neighbourhood of the village to which they refer by a revenue officer not below the rank of a Naib-Tahsildar:

Provided that, where there is no dispute, an entry may be certified—

- (i) by the revenue inspector, if the mutation is consequent upon the imposition or discharge of a mortgage or upon the coming of age of a minor, or if the entry relates to wells or trees;
- (ii) by the town surveyor, if the entry relates to a plot of land in a town where there has been a revenue survey, other than—
 - (a) a plot granted without assessment in a non-municipal town since 1882 and held at present revenue-free but without guarantee that it will be so held in future, or
 - (b) a plot which is not liable to the payment of land revenue under sub-section (2) of section 90, or
 - (c) a plot held free from the payment of land revenue on condition of being used for a specified purpose, or
 - (d) a plot forming part of the unoccupied nazul land, or
 - (e) a plot vested in a local body under the law governing its constitution, or
 - (f) a plot granted under the Crown Grants Act, 1895.

15. The certifying officer shall give due notice in Form J to the patwari concerned and the patwari shall thereupon issue notices to the parties in Form K:

Provided that in the case of town lands such notices shall be issued by the certifying officer himself.

16. No mutation entry shall be certified before the expiry of one month from the date on which a copy of the entry was posted in the *chaudi* or *tahsili*.

17. No mutation entry shall be certified except in the presence of the parties concerned, provided that, where a party has been served with a notice in Form K, the entry may be certified *ex parte*.

18. The certifying officer shall read out the entry in the presence of the parties interested and where the correctness of the entry is admitted shall record such admission in the mutation register and add an endorsement under his signature that the entry has been duly certified:

Provided that mutations in regard to inam fields, other than mutations in respect of ante-inam tenants or in respect of entries in the record of rights maintained in Forms BB and O shall not be certified till sanctioned by the Deputy Commissioner.

19. All original documents produced before the certifying officer shall be endorsed by him and returned to the parties as soon as orders have been passed.

20. Disputes shall be decided summarily on the basis of possession, that is to say, the person who actually holds possession under a claim of title shall be recorded as the occupant or permanent tenant, etc., as the case may be. If there is doubt as to actual possession, the person with the strongest title should be recorded. The order should contain the names of the parties and witnesses and a brief summary of the evidence produced by either side, together with the certifying officer's finding thereon.

21. When the dispute order requires any change in the entry in the mutation register, the certifying officer shall make the necessary corrections.

22. When the entries in the mutation register of a village have been certified, they shall at once be transferred by the patwari or town surveyor to the record of rights by writing them below the old entry, or where the changes are small, by correcting the old entry. Such new entries or corrections shall be made in red ink and shall be initialled by the certifying officer.

Where more than one mutation of an entry has taken place prior to certification, each mutation shall be transferred to the record of rights in order of occurrence.

23. All mutations remaining uncertified during the last tour of the certifying officer before the rains shall be entered in a register of pending cases in Form L, and steps shall be taken to dispose of these cases by calling the parties to convenient centres or to the *tahsili* during the monsoon.

24. The record of rights shall be rewritten after every five years or after such longer period as the Deputy Commissioner may decide after scrutiny of the record.

25. Intimations of transactions affecting land which registering officers are required to send under section 113 shall be in

Form M. A separate form shall be prepared for each village in the first week of each month for the transactions of the past month and shall be despatched to the Tahsildar for transmission to the patwari or town surveyor concerned.

26. The acknowledgment to be given for a notice of acquisition of right under section 109, or of an objection under section 110 (3), or for information of documents requisitioned under section 116 of the Code shall be in Form N.

27. The measurement of sub-divisions of survey numbers and of town plots shall be carried out by measurers appointed in this behalf. Such measurers shall enter the area of each sub-division or plot in the record of rights and mutation register.

28. The payment of flag-holders and chainmen required for measurement operations shall be made daily, under the supervision of the patel, direct by the persons whose sub-divisions have been measured during the day. The rate shall be fixed by the measurer in each village with the aid of a panch according to the labour rate customary in the village.

29. In addition to the cost of flag-holders and chainmen, a measurement fee according to the following scale shall be paid by the holder of each sub-division or survey number measured :—

	Rs.	a.	p.
(1) For sub-divisions on which the rent or land revenue assessed is less than Rs. 5.	1	0	0
(2) For sub-divisions on which the rent or land revenue assessed is Rs. 5 or more.	2	0	0
(3) For sub-divisions of plots in towns	...	2	0 0
(4) For survey numbers	...	5	0 0

FORM A

[Referred to in rule 1 under sections 108, etc.]

Record of rights continued from the year For superior holders in alienated villages.

Village _____ Taluq _____

Serial number	Name of each superior holder or co-sharer	Details of share			Nature and origin of title	Other rights or encumbrances with name of the right holder or encumbrancer	Serial number in the mutation register with date of certification	Remarks
		Fractional amount of share	Area	Revenue				
1	2	3	4	5	6	7	8	9

NOTE.—In the remarks column the date of first promulgation or of rewriting should be given.

[Referred to in rule 1 under sections 108, etc.]
For ante-alienat:

*Record of rights continued from the year
entitled to hold*

For ante-alienation tenants, tenants of antiquity, protected tenants and tenants under leases or otherwise for a period of not less than 10 years.

Serial No.	Survey number	Area	Assessment	Sub-division number	Area	Assessment	Name of ante-alienation tenant, antiquity or other tenant	Rights in which the land is held	Origin of title	Rent paid or services rendered to superior holder	Name of superior holder to whom rent is payable or services renderable	Other rights or encumbrances with name of right holder or encumbrancer	Serial number in the mutation register with date of certification	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

NOTES.—(1) This form will be filled up for each survey number held by an ante-alienation tenant, tenant under lease or otherwise for a period of not less than ten years.
(2) In the remarks column the date of the first promulgation of the Revenue Code.



NOTES.—(1) This form will be filled up for each survey number held by an ante-alienation tenant, tenant of antiquity or tenant entitled to hold whether under leases or otherwise for a period of not less than ten years.

(2) In the remarks column the date of the first promulgation or of rewriting should be given.

(2) In the remarks column the date of the first promulgation or of the first publication of the law, decree, regulation, etc., shall be filled up for each survey number held by an ante-alienation whether under leases or otherwise for a period of not less than ten years.

FORM C

[Referred to in rule 1 under sections 108, etc.]

Record of rights continued from the year For plot holders and protected tenants.

Village _____ Taluq _____

Serial No.	Survey number	Area	Assessment	Sub-division number	Area	Assessment	Name of plot holder, ante-alienation tenant or permanent tenant	Rights in which the land is held	Origin of title	Rent paid to superior holder	Other rights or encumbrances with name of right holder or encumbrancer	Serial number in the mutation register with date of certification	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	14

NOTES.—(1) This form will be filled up for each survey number held by a plot holder or protected tenant in serial order.

(2) The names of plot holders to whom full proprietary rights in any area have been transferred but the right to receive rent has been reserved by the superior holder should be entered in column 8.

(3) In the remarks column the date of the first promulgation or of rewriting should be given.

FORM D

[Referred to in rule 1 under sections 108, etc.]

Record of rights continued from the year In surveyed town lands.

Serial No.	Sheet number	Plot number	Reference to old number	Area in sq. ft.	Tenure	Assessment	Year from which assessment of assessed plots is liable to revision	Name, percentage, profession and caste of occupant	Title	Encumbrances and easements against Government or private persons	Serial number in the mutation register with date of certification	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

NOTE.—In the remarks column the date of the first promulgation or of rewriting should be given.

FORM F
[Referred to in rule 13 under sections 108, etc.]
Mutation Register—For unalienated villages.

Village _____ Taluq _____

Serial number of mutation	Date of entry in the mutation register	Back reference	Forward reference	New entry						Remarks and signature of officer
				Survey number and sub-division number	Area	Assessment	Occupant of khalsa land or holder of inam land	Nature and origin of title	Other rights or encumbrances with name of the right holder or encumbrancer	
1	2	3	4	Columns 2 and 6 in the record of rights	Column 3 or 7 in the record of rights	Column 4 or 8 in the record of rights	Column 9 in the record of rights	Column 10 in the record of rights	Column 11 in the record of rights	11

FORM H

[Referred to in rule 13 under sections 108, etc.]

Mutations Register—For plot holders and protected tenants.

Village _____ Taluq _____

Serial number of mutation.	Date of entry in the mutation register	New entry							Remarks and signature of officer
		Survey number and sub-division number	Area	Assessment	Plot holder, ante-alienation tenant or permanent tenant	Nature and origin of title	Rents or ^{3/} assessment paid to superior holder	Other rights or encumbrances with name of the right holder or encumbrancer	
1	2	Columns 2 and 5 in the record of rights	Columns 3 and 6 in the record of rights	Columns 4 and 7 in the record of rights	Column 8 in the record of rights	Columns 9 and 10 in the record of rights	Column 11 in the record of rights	Column 12 in the record of rights	10

FORM HH

[Referred to in rule 13 under sections 108, etc.]

Mutations Register.—For ante-alienation tenants, tenants of antiquity and tenants entitled to hold whether under leases or otherwise for a period of not less than ten years.

Village _____ Taluq _____

Serial number of mutation	Date of entry in the mutation register	Survey number and sub-division number	Area	Assessment	Ante-alienation tenant, tenant of antiquity or other tenant	Nature and origin of title	Rents or assessment paid to superior holder	Name of superior holder to whom rent is payable or service renderable	Other rights or encumbrances with the name of the right holder or encumbrancer	Remarks and signature of the officer
1	2	Columns 2 and 5 in the record of rights	Columns 3 and 6 in the record of rights	Columns 4 and 7 in the record of rights	Column 8 in the record of rights	Columns 9 and 10 in the record of rights	Column 11 in the record of rights	Column 12 in the record of rights	Column 13 in the record of rights	11

FORM II
Mutation Register—For register of communal rights.

[illegible]

FORM J

[Referred to in rule 15 under sections 108, etc.]

Notice.

From

THE TAHSILDAR _____
_____ taluq,

To

The village officers of village _____
_____ taluq.

Notice is hereby given that the entries in the mutation register of your village will be verified by the certifying officer on _____ at _____

You are, therefore, hereby required to issue timely notices to all the parties concerned directing them to appear at the certifying officer's camp on the abovementioned date. You are also directed to appear before the officer on that date with all your dafter. You must arrange for the reservice of such notices as may be returned unserved. Your failure to act as above will be severely dealt with.

Tahsildar,
_____ taluq.

Dated _____ 19 _____

FORM K

[Referred to in rule 15 under sections 108, etc.]

Summons to appear.

Whereas a report regarding the acquisition of rights as specified in the margin over land situated in village _____ taluq _____ has been received, you are hereby required to appear before the certifying officer at 11 a.m. on _____

_____ Patel.
Patwari,
or
_____ Tahsildar.

Dated _____ 19 _____

FORM L

[Referred to in rule 23 under sections 108, etc.]

Register of pending mutation cases.

Taluq _____ year _____ Village _____

Serial number	Serial number in mutation register	Names and addresses of parties	Date fixed	Date of disposal
1	2	3	4	5

FORM M

[Referred to in rule 25 under sections 108, etc.]

Sub-Registrar's monthly return of registered transactions affecting land in Salug
district for the month of 19.

Serial number in registration book	Name of village in which the land is situated	Nature of the document	Survey number (or plot number) and sub-division number affected by the transaction	Area	Rental, if any	Tenure	Name, caste and residence of the executor of the document	Name, caste and residence of the person in whose favour the document is executed	Whether the registered transaction is by order of court or otherwise	Con-sideration	Date of execution of the document	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13

Instructions.—

1. A separate return will be prepared for each village every month and will be despatched to the Tahsildar in the first week of the following month. The return will include all documents affecting land which were registered during the month.
2. The return will be forwarded in original by the Tahsildar to the patwari or town surveyor concerned who will number the return for each village serially.
3. The patwari or town surveyor concerned will keep a file of these returns called the "File of monthly registrations" in which each return will be given a page number.
4. This file will be open to inspection by the public and on application copies will be given in the same way as copies of other village papers.
5. This file must be examined at the time of jamabandi and it must be verified that the entries in it are correct.

NOTES.—(1) All documents relating to lands like sale-deeds, gift deeds, exchange deeds, deeds of mortgage with or without possession, partition deeds, relinquishment deeds or documents relating to other transactions affecting land should be included in this list. Documents that affect, however, the holdings of tenants other than those whose particulars are shown in the record of rights under section 108, etc., of the Berar Land Revenue Code, 1928, need not be included in these lists. In izara villages tenants, whose particulars are included in the record of rights are (1) plot holders, (2) ante-alienation tenants and (3) permanent tenants and in jagir and palampat villages (1) ante-alienation tenants, (2) tenants of antiquity and (3) tenants entitled to hold land whether under leases or otherwise for a period of not less than ten years.

The following documents need not be included in the list :—

(a) In khalsa and izara villages—

- (1) Leases passed for a period of not less than five years for redemption of debts.
- (2) Leases for a fixed period on a payment of a premium.
- (3) Wills.

(b) In jagir and palampat villages—

- (1) Leases passed for a period of not less than ten years.
- (2) Wills.
- (2) In the case of leases the period of the lease should be stated in column 3.
- (2A) In column 11 should be entered details of the actual consideration, e.g., in the case of a sale for old debt, it should be so stated and the amount of the old debt mentioned or in the case of a renewal of a mortgage, the old mortgage and its amount should be entered.
- (3) If house or other property is included in the transaction, or if any special condition, etc., are attached to it, should be noted in column 13.
- (3) If house or other property is included in the transaction, or if any special condition, etc., are attached to it, should be noted in column 13.
- (5) In the case of town lands a separate return in respect of houses and building sites will be prepared and forwarded to the Tahsildar.

FORM N

[Referred to in rule 26.]

Received under section 109, 116, Berar Land Revenue Code.

Received from _____
 report _____
 the objection statement specified in the margin regarding the
documents
 requisition of right over land situated in village _____
 taluq _____

_____ Patel.
 _____ Patwari.
 Dated _____ 19 _____

FORM O

Record of rights of communal rights in _____ village in _____
 taluq of _____ district _____ continued from the
 year _____

PART A

The public use the following roads:—

Kind of road and places connected by the road	Survey numbers between which the road passes	Width of the road in or between the survey numbers	The period for which it is open	Remarks
1	2	3	4	5

PART B

The villagers of _____ use the lands shown below for the following purposes:—

Purposes	Particulars of land	Area	Remarks
1	2	3	4
Cremation ground			
Burial ground			
Grazing land			
Gothan khalwadi land			
Gaothan			

109. Any person acquiring any right or interest in land required by or under section 108 to be entered in the record of rights shall report orally or in writing his acquisition of such right to the patwari within three months from the date of such acquisition, and the patwari shall at once give a written acknowledgment for such report to the person making it, in a form to be prescribed by rules made under this Law:

Acquisition of rights to be reported.

Provided that—

- (i) when the person acquiring the right is a minor or is otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwari;
- (ii) any person acquiring a right by virtue of a registered document or under a decree of a civil court shall be exempted from the obligation to report to the patwari.

Explanation I.—The rights mentioned above do not include an easement or a charge, not amounting to a mortgage, of the kind specified in section 100 of the Transfer of Property Act, 1882.

Explanation II.—A person, in whose favour a mortgage is redeemed or paid off, or a lease is determined, acquires a right within the meaning of this section.

Explanation III.—For the purpose of this Chapter the term “patwari” includes any person appointed by the Deputy Commissioner to perform the duties of a patwari under this Chapter.

110. (1) The patwari shall enter in a register of mutations every acquisition of right of the kind specified under section 108 which is reported to him under section 109 or otherwise comes to his notice.

Register of mutations and register of disputed cases.

(2) Whenever the patwari makes an entry in the register of mutations, he shall at the same time post up a complete copy of the entry in the *chaudi* or other place appointed by the Deputy Commissioner, and shall give written intimation to all persons appearing to him to be interested in the mutation.

(3) Should any objection to an entry made under sub-section (1) in the register of mutations be made either orally or in writing to the patwari it shall be the duty of the patwari to enter the particulars of the objection in a register of disputed cases. The patwari shall at once give

a written acknowledgment for the objection to the person making it in the form prescribed by rules made under this Law.

Entries in register of mutations how to be certified.

(4) Every entry in the register of mutations shall be tested, and, if found correct, or after correction, as the case may be, shall be certified by, and objections entered in the register of disputed cases shall be disposed of by such officers and in such manner as may be prescribed by rules made under this Law.

(5) Entries in the register of mutations, when duly certified, shall be transferred to the record-of-rights in the manner prescribed by rules made under this Law.

Presumption of correctness of entries in record-of-rights.

(6) An entry in the record-of-rights shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Jurisdiction of Civil Courts.

111. The civil courts shall have jurisdiction to decide any dispute to which the Crown is not a party relating to any right which is recorded in the record-of-rights.

Certified copy of record-of-rights to be annexed to plaint or application.

112. (1) The plaintiff or applicant in every suit or application, as hereinafter defined, relating to land shall, on or before the date of the first hearing or the date appointed for the return of process, as the case may be, file a certified copy of the latest entries in the record-of-rights relating to such land :

Provided that no copy need be filed with an application for execution of a decree if a copy of the latest entry has already been filed in the proceedings leading up to such decree.

(2) If the plaintiff or applicant fails so to do for any cause which the court deems sufficient, he shall produce such certified copy within a reasonable time to be fixed by the court ; and if such certified copy is not so produced, the suit or application shall be dismissed but the dismissal thereof shall not of its own force preclude the presentation of a fresh plaint in respect of the same cause of action or of a fresh application in respect of the same subject matter.

(3) After the disposal of any case in which a certified copy of any such entry has been recorded, the court shall communicate to the Deputy Commissioner any error appearing in such entry and any alteration therein that may be required by reason of the decree or order, and a copy of such communication shall be kept with the

record. The Deputy Commissioner shall in such a case cause the entry to be corrected in accordance with the decree or decision of the court so far as it adjudicates upon any right required to be entered in the record-of-rights or register of mutation. The provisions of this sub-section shall apply also to an appellate or revisional court :

Provided that in the case of an appellate or revisional decree or order passed by the High Court, the communication shall be made by the court from which the appeal lay or the record was called for.

(4) In this section—

(a) “suit” means a suit to which the provisions of the Code of Civil Procedure, 1908, apply :—

(b) “application” means an application—

(i) for the execution of a decree or order in a suit ;

(ii) for the filing of an agreement stating a case for the opinion of the court under the Code of Civil Procedure, 1908 ;

(iii) for the filing of an agreement to refer to arbitration under paragraph 17 of the second schedule to the said Code ;

(iv) for the filing of an award under paragraph 20 of the said schedule ;

(v) of any other kind to which the Governor in Council may, by notification, direct that this section shall apply ;

(c) an application shall be deemed to relate to land if the decree or other matter, with respect to which the application is made, relates to land ;

(d) a suit relating to land shall not be deemed to include a suit wherein the only claim is against a tenant for arrears of rent.

113. When any document purporting to create, assign or extinguish any title to or any charge on land used for agricultural purposes, *or in respect of which a record-of-rights has been prepared, is registered under the Indian Registration Act, 1908, the Registering Officer shall send intimation to the patwari of the village in which the land is situate in such form and at such times as may be prescribed by rules made under this Law.

Intimation of
transfers by
Registering
Officers.

*Inserted by Government of India, Foreign and Political Department Notification No. 82-I, dated the 22nd February 1933.

CHAPTER XI.—BOUNDARIES AND BOUNDARY MARKS—SURVEY MARKS

Determination
of certain
boundaries.

122. The boundaries of all villages, and, in unalienated villages, the boundaries of survey numbers, subdivisions or survey numbers and fields, shall be fixed, and all disputes relating thereto shall be decided, by the Deputy Commissioner, subject to rules made under this Law.

RULES

Notfn. No.
2134-XII,
d. 4-7-29,
as amended by
Notfn. No.
1921-T-165
XII, d. 19-6-30
and Notfn.
No. 80-XVII,
d. 7-4-32.

1. When there is a dispute regarding the boundary of any village or of any survey number or surveyed sub-division in an unalienated village, the correct position of the boundary shall be determined by measurement according to the data contained in the survey records:

Provided that where the boundary so determined is called in question, its correct position shall be decided on such evidence as may be available or by reference to arbitration under section 123 of the Code.

2. The boundaries of sub-divisions which have not been surveyed shall be fixed according to the line agreed to by the holders concerned. If there is any dispute, the correct position of the boundary shall be decided on such evidence as may be available or by reference to arbitration under section 123 of the Code. Such boundary strip or ridge shall be half in one field and half in the other field on either side of the boundary line as shown in the survey records.

3. Any application by a private person for the measurement of land, whether for the purpose of determining the boundary or for any other purpose, shall be accompanied by a copy of the tipan giving the measurements required.

4. A fee of Rs. 5 for each survey number or sub-division to be measured shall be paid in advance by the person applying for measurement.

5. The survey number or sub-division shall thereupon be measured by a revenue inspector or measurer or such other officer as may be deputed by the Deputy Commissioner for the purpose.

Settlement of
boundary
disputes by
arbitration.

123. (1) If the several parties concerned in a dispute relating to any boundary specified in section 122 agree to submit the settlement thereof to an arbitration committee and make application to that effect in writing, the Deputy Commissioner shall require the said parties to nominate a committee of not less than three persons within a specified time; and, if, within a period to be fixed by the Deputy Commissioner, the committee so nominated

or a majority of the members thereof arrive at a decision, such decision, when confirmed by the Deputy Commissioner, shall be final :

Provided that the Deputy Commissioner may remit the award or any of the matters referred to arbitration to the reconsideration of the same committee for any of the causes set forth in paragraph 14 of the second schedule to the Code of Civil Procedure, 1908.

(2) If the committee appointed in the manner aforesaid fails to effect a settlement of the dispute within the time specified, the Deputy Commissioner shall, unless he sees fit to extend the time, decide the dispute.

124. (1) Where a boundary has been fixed under the provisions of section 122 or section 123, the Deputy Commissioner may summarily eject any person who is wrongfully in possession of any land which has been adjudged in the settlement of a boundary not to appertain to his holding or to the holding of any person through or under whom he claims. Ejection of persons wrongfully in possession.

(2) Where any person has been ejected from any land under the provisions of sub-section (1) he may, within the period of one year from the date of the ejection, institute a civil suit to establish his title thereto :

Provided that the Crown, or the Deputy Commissioner, or any Revenue Officer as such, shall not be made a party to such suit.

(3) The Deputy Commissioner may at any time make an order for a redistribution of land-revenue which in his opinion should be made as a result of the decree in a civil suit instituted under sub-section (2), and such redistribution shall take effect from the beginning of the revenue year following the date of the order.

125. (1) The boundaries of—

(a) all villages,

(b) all survey numbers in unalienated villages, and

(c) all holdings of ante-alienation tenants, tenants of antiquity and permanent tenants in alienated villages,

Construction of boundary marks of villages survey marks and holdings.

shall be demarcated by boundary marks which shall, subject to the provisions hereinafter contained, be of such specification and shall be constructed and maintained in such manner as may be prescribed by rules made under this Law.

(2) Where the rules prescribe boundary marks of a specification different from that prevailing in any village, the new specification shall not be enforced in such village except upon application to a Revenue Officer made by the holders of not less than three-quarters of the occupied land in the village.

When such application is made the Revenue Officer shall have new boundary marks constructed throughout the village and shall distribute the cost thereof proportionately among the holders of land in the village in accordance with rules made under this Law.

The share of each holder shall be recoverable as an arrear of land-revenue.

Responsibility
for main-
tenance of
boundary
and survey
marks.

(3) Every holder of land shall be responsible for the maintenance and repair of the boundary and survey marks erected thereon.

RULES

Notfn.
No. 2134-XII,
d. 4-7-29, as
amended by
Notfn.
No. 1921-T-
165-XII,
d. 19-6-30
and Notfn.
No. 11-XVII,
d. 21-1-35.

1. For the purpose of these rules the holding of an ante-alienation tenant, tenant of antiquity or permanent tenant shall be deemed to be a survey number or survey numbers as the case may be.

2. The boundaries of all villages and survey numbers shall consist of an unploughed strip or dhura $4\frac{1}{2}$ feet broad, or in the alternative a ridge, fence or wall as provided by rule 12.

3. Near each corner of a survey number shall be erected two mounds (warulis) pointing along the field boundaries. The dimensions of such warulis shall be—

Length 10 feet.
Breadth at base 5 feet.
Breadth at top $\frac{3}{4}$ foot.
Height 3 feet.

4. When the length of a boundary exceeds 25 chains one intermediate stone or waruli shall be erected on such boundary unless the boundary is clearly defined by a hedge, fence or wall.

5. At each bend of more than 4 annas in the boundary of a survey number shall be erected a stone not less than 6 inches square and $2\frac{1}{2}$ feet in length of which at least 2 feet shall be sunk in the ground.

6. When the corner of a survey number falls near a nalla where mounds would be liable to be washed away, stones as prescribed in rule 5 may be used instead of warulis to demarcate the boundary. In that case one stone shall be fixed at the corner and another stone or a waruli on each boundary line at a distance of 8 annas ($16\frac{1}{2}$ feet) from the corner.

7. In villages where the holders of not less than three quarters of the occupied land in the village desire it, a system of single boundary marks may be introduced in place of those

prescribed in rules 3 to 6. Such single boundary marks may be of the following descriptions:—

- (1) Stones not less than 3 feet long and 7 inches square embodied in rubble and mortar with not more than 1 foot above the ground level.
- (2) Masonry pillars of cement, mortar or burnt brick in cement mortar 1 foot square and 3 feet high of which 2 feet must be embedded in the ground with the foundations stepped down.
- (3) Of such other description as may be approved from time to time by the Governor in Council.

One such boundary mark shall be fixed at each corner of a survey number and at each bend of more than 4 annas in its boundary and in the middle of each boundary exceeding 25 chains in length.

8. In order to cover the cost of any staff employed for determining the position of single boundary marks, fees not exceeding the following scale may, if the Deputy Commissioner so directs, be recovered from the occupant of each survey number, in addition to the cost of materials and labour:—

	Rs.
Survey numbers on which the land revenue assessed is less than Rs. 10.	2
Survey numbers on which the land revenue assessed is Rs. 10 or more.	4

9. Between the 1st November and the 15th December each year the patel and patwari shall jointly inspect every boundary mark in each survey number in the village and shall prepare a list of defective or missing marks and shall give written notice in Form A to the holders concerned:

Provided that the Deputy Commissioner may direct that, in any specified village where the inspection of all the boundary marks between the dates prescribed would be attended with difficulty, the inspection of not less than one-third of their number shall be made annually, care being taken to ensure the examination of all of them at least once in three years; and provided further that all boundary marks must be inspected in the year preceding the inception of a revenue survey.

10. After the 1st March the village officers shall make a second inspection of all fields entered in the list to ascertain whether the defective boundary marks have been repaired or not. The second inspection shall be completed by the 31st March and the patwari shall thereupon send to the Tahsildar a statement, signed by himself and the patel, boundary marks still defective and an estimate of the cost of their repair.

A separate report shall be sent by the village officers regarding each case of encroachment or ploughing up of a boundary strip together with an estimate of the cost of repairs.

11. The Tahsildar shall then, after such enquiry as he may consider necessary, order the patel to have the boundary marks repaired by hired labour, recovering the costs together with such penalty, not exceeding Re. 1 per boundary mark, as the Tahsildar may think fit. If necessary the cost of repairs may

be recovered in advance, the balance, if any, unspent being refunded to the defaulter on completion of the work.

12. Where a boundary strip has been encroached upon or ploughed up, the Tahsildar shall issue a notice to the person responsible requiring him by a certain date to erect on that portion of the boundary strip which has been encroached on or ploughed up a ridge of earth $4\frac{1}{2}$ feet broad at the base and $1\frac{1}{2}$ feet high or a strong fence or wall; and, should he fail to do so, the Tahsildar shall order a ridge to be constructed by hired labour and the cost together with such penalty as he may deem fit to be recovered from the defaulter.

13. The construction and maintenance of boundary marks in an unalienated village shall be regulated as follows:—

(a) where Government forest adjoins, or is included in such village, half the boundary marks shall be constructed and maintained by the Forest Department and the other half shall be constructed and maintained—

(i) if the forest adjoins occupied land, by the holders of such land, or

(ii) if the forest adjoins unoccupied land of any class, by the Revenue Department;

(b) the boundary marks between survey numbers of unoccupied land of any of the classes specified in section 42 of the Code shall be constructed and maintained by the Revenue Department;

(c) a holder of land shall be responsible for the construction and maintenance of—

(i) half the boundary marks on the boundaries between his land and other occupied land,

(ii) all the boundary marks between his land and unoccupied land of any class:

Provided that between a village in which the system of single boundary marks has been introduced under rule 7 and one in which it has not, the holder of land in the former shall be responsible for the construction and maintenance of all such marks that fall on the common boundary.

14. The construction and maintenance of boundary marks for which under rule 13 the Forest Department is responsible will be carried out by that department at the cost of Government.

15. The construction of boundary marks for which under rule 13 the Revenue Department is responsible will be carried out at the cost of Government. But for their maintenance the village mahars will be responsible. For this they shall receive no remuneration except that they shall be paid by Government for the repair of the boundary marks of only H class land when the Revenue Department is responsible for it under clause (a) (ii) and clause (b) of rule 1.

16. In an alienated village, ante-alienation tenants, tenants of antiquity and permanent tenants shall be responsible for the construction and maintenance of half the boundary marks

of their survey numbers and the superior holder for half the boundary marks of his land where it adjoins the survey numbers of such tenants or the village boundary. Provided that where the village boundary does not adjoin occupied land the tenant or the superior holder, as the case may be, shall be responsible for the construction and repair of the whole of the boundary marks on such boundary.

17. Holders of sub-divisions who have had boundary marks erected under the provisions of section 127 of the Berar Land Revenue Code will be responsible for the maintenance of the whole of such boundary marks.

18. In allotting to each holder of land the share of the boundary marks for the construction and maintenance of which he is responsible the Deputy Commissioner shall ordinarily maintain any distribution recorded in the survey papers.

19. The Deputy Commissioner may, subject to the foregoing rules, either declare two or more holders of land to be jointly responsible for the maintenance of any boundary mark, or allot to each holder separate marks. And if it is not practicable to make an exactly equal distribution of separate marks he may make such distribution as appears equitable or may recognize an existing customary distribution. His decision shall be recorded in the survey papers.

FORM A

[Referred to in rule 9 under section 125.]

Notice requiring holders of land to repair their boundary marks.

From

The patel of village

taluk

To

Whereas the boundary marks of your field detailed below are defective, you are hereby directed to put them into proper repair before the 1st day of March next:—

Survey number	Details of defective or missing boundary marks

(Sd.)

Patel.

Dated

19

**Enforcement
of repair of
boundary or
survey marks.**

126. (1) After the end of November in each year the patel of the village shall give written notice to every holder on whose land the boundary or survey marks are defective, calling upon him to put them into proper repair before the first day of March following.

(2) After the first day of March in any year a Revenue Officer may cause any defective boundary or survey mark to be properly repaired and shall recover the cost of repair from the holder or holders responsible for the maintenance of such boundary or survey mark, together with a penalty which may extend to one rupee for every boundary mark so repaired.

Such cost and penalty shall be recoverable as arrears of land-revenue.

**Demarcation
of boundaries
of sub-
divisions.**

127. (1) The Deputy Commissioner may, on the application of a party interested, demarcate the boundaries of a sub-division in a survey number, and construct boundary marks thereon.

(2) Rules may be made under this Law regulating the procedure of the Deputy Commissioner in demarcating the boundaries of sub-divisions, prescribing the nature of the boundary marks to be used, and authorizing the levy of fees from the holders of land in a demarcated sub-division.

(3) Sub-divisions demarcated under the provisions of this section shall be deemed to be survey numbers for the purposes of section 125.

RULES

ofn.

2134-XII,
4-7-29.

1. The boundary marks of sub-divisions may be of any of the kinds specified in rules 3 to 7 under section 125 of the Code.

2. The cost of materials and labour shall be paid by the holders of the sub-divisions and in addition a fee according to the following scale for each sub-division demarcated :—

	Rs.
On sub-divisions on which the land revenue assessed is less than Rs. 5	...
On sub-divisions on which the land revenue assessed is Rs. 5 or more	...
	1
	2

**Penalty for
destruction,
injury or
removal of
boundary or
survey marks.**

128. (1) If any person wilfully destroys or injures, or without lawful authority removes, a boundary or survey mark lawfully constructed he may be ordered by the Tahsildar to pay such fine, not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in

the opinion of the Tahsildar, be necessary to defray the expense of restoring the same and of rewarding the informant, if any.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

129. (1) The Deputy Commissioner may inquire into and decide claims by persons holding land in a survey number to a right of way over the boundaries of other survey numbers. Rights of way over boundaries.

(2) In deciding such claims the Deputy Commissioner shall have regard to the needs of cultivators for reasonable access to their fields.

(3) Any person who is aggrieved by a decision of the Deputy Commissioner under this section may, within a period of one year from the date of such decision, institute a civil suit to have it set aside or modified.

130. The Governor in Council may, by notification, declare that any or all of the provisions of this Chapter shall not apply to any village or class of villages, or that any such provision shall apply only as modified by such notification. Power to exempt from operation of this Chapter.

CHAPTER XII.—REALIZATION OF LAND REVENUE

A.—Payment of land revenue.

131. The land-revenue assessed on any land shall be a first charge on that land and on the crops, rents and profits thereof. Land-revenue a first charge on land.

132. (1) The following persons shall be primarily liable for the payment of the land-revenue assessed on a holding :— Responsibility for payment of land-revenue.

- (a) in an occupant's holding, the occupant thereof ;
- (b) in a holding consisting of alienated land, the superior holder thereof and his co-sharers ;
- (c) in a holding consisting of land leased from the Crown the lessee thereof.

(2) When there are more than one occupant, superior holder, co-sharer or lessee in a holding, all such occupants, superior holders, co-sharers or lessees,

case may be, shall be jointly and severally liable to the payment of the land-revenue assessed on such holding.

Land-revenue recoverable from any person in possession.

133. In case of default by any person who is primarily liable under section 132, the land-revenue, including arrears, shall be recoverable from any person in possession of the land :

Provided that such person shall be entitled to credit for the amount recovered from him in account with the person who is primarily liable.

Dates on which land-revenue falls due and is payable.

134. (1) The land-revenue payable on account of a revenue year shall fall due on the first day of that year.

(2) Rules may be made under this Law providing for the payment of land-revenue in instalments and on dates (hereinafter referred to as prescribed dates) subsequent to the first day of the revenue year, and such rules may prescribe the persons to whom and the places whereat such instalments shall be paid.

(3) Any period elapsing between the first day of the revenue year and any date fixed for the payment of land-revenue by such rules shall be deemed to be a period of grace, and shall not affect the provisions of sub-section (1).

RULES

Notfn.
No. 3104-XII,
d. 1-10-29,
as amended by
Notfn.
No. 4571-3518-
A-XII,
d. 4-12-35.

1. Land revenue on account of occupied land other than nazul or village site land shall be payable in instalments on the 28th January and 15th April, calculated in accordance with the next following rule.

2. If $\frac{3}{4}$ ths or more of the area of a survey number or sub-division excluding pot-kharab is sown with kharif crop, the land revenue shall be payable on the 28th January. If $\frac{3}{4}$ ths or more sown with rabi, the land revenue shall be payable on the 15th April. If the proportion of the area under rabi or kharif, as the case may be, is more than $\frac{1}{4}$ th but less than $\frac{3}{4}$ ths of the total, the land revenue shall be payable half on the 15th February and half on the 15th April.

Explanation.—Fallow land and land diverted to non-agricultural use shall for the purpose of this rule be considered as under kharif crop.

3. Land revenue shall be paid in the village to the revenue patel of the village :

Provided that in special cases, with the sanction of the Deputy Commissioner, land revenue may be paid into any sub-treasury

or district treasury in Berar. Such payment shall not be accepted unless the payer furnishes with it full particulars of the amount due and of the land on which it is due.

135. Any land-revenue due and not paid on or before the prescribed date becomes therefrom an arrear, and the persons responsible for it, whether under the provisions of section 132 or of any other section, become defaulters. Definition of "arrear" and "defaulter."

136. (1) Where a patel or patwari receives a payment from any person on account of land-revenue or on account of any sum of money recoverable as an arrear of land-revenue, he shall grant a receipt for such sum in the form prescribed by rules made under this Law. Patel or patwari bound to give receipt.

(2) The granting of such receipts in the prescribed form shall be deemed to be a duty of the patel or patwari for the purposes of the Berar Patels and Patwaris Law, 1900.

RULES

1. Receipts for land revenue paid on account of occupied land other than nazul or village site land, shall be granted in a receipt book in Form A, to be maintained by each occupant or holder. Such receipt books shall be stocked at the tahsili and sold to the public at the rate of 4 annas each. Notn. No. 3104-XI d. 1-10-29.

2. Receipts for land revenue paid on account of nazul or village site land or other money recovered by the patel as an arrear of land revenue shall be granted in Form B. The receipt shall be written in duplicate by means of carbon paper, the original, of which will be given to the payee and the duplicate retained by the patel.

137. If any instalment of land-revenue is not paid on or before the prescribed date, the Deputy Commissioner may impose a penalty in accordance with a scale to be prescribed by rules made under this Law. Penalty for default of payment of land-revenue.

Provided that no such penalty shall be imposed for the non-payment of any instalment, the payment of which has been suspended by the order of Government, in respect of the period during which the payment remained suspended.

RULES RELATIVE OF PENALTY

1. The Deputy Commissioner under section 137 of the Code shall impose a penalty in accordance with the scale of land revenue in arrears. Notn. No. 3104-XII d. 1-10-29.

FORM A

[Referred to in rule 1 under section 136 (1)].

Receipt book (first page).

District

Taluq

Village

Name, fathers' name and caste of occupant

No. of holding

Serial No. in re- cord of rights	Sur- vey No.	Sub- divi- sion No.	Area	Assessment					Re- marks
				Land revenue	Deduct assign- ment	Net amount for payment	Cesses	Total	
			A. g.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	

(Subsequent pages.)

Page of ledger Year No. of holding

Credit			Debit		
Amount	Details	Amount	—	Details	
				Land revenue	Cesses
	Kird page date ..		Past arrears ..		
	Received from ..		Demand for current ..		
	By the hand of ..		year as per jama-		
	Rs. a. ..		bandi.		
	Patel ..				
	Patwari ..		Total ..		
	Total receipt (words)				
	Balance due (words) ..		1st instalment ..		
	Patel ..		2nd instalment ..		
	Patwari ..		Total ..		
			Patel ..		
			Patwari ..		

FORM B

[Referred to in rule 2 under section 136 (1)].

*Receipt*Received from
resident of
Rs.taluk
on account of

the sum of

Dated

19

(Sd.)

Patel.

Village

(Sd.)

Patwari.

138. (1) Where the superior holder or co-sharer in any alienated village, for which a record-of-rights is maintained under Chapter X, has paid, under pressure of process, any land-revenue due by any other superior holder or co-sharer in the village, he may, within six months from the date of such payment, apply in writing to the Deputy Commissioner to recover such amount on his behalf.

Recovery through Deputy Commissioner of revenue paid on behalf of co-sharer in izara village.

(2) The Deputy Commissioner may reject such application, or, after satisfying himself that the amount claimed, or any part thereof, is due and after giving the person against whom the claim is made an opportunity to show cause, may, subject to rules made under this Law, recover, as if it were an arrear of land-revenue, such amount, with costs and interest, from the person held by him to be liable for the same.

(3) No appeal shall lie from an order under this section, but any person affected by such order may institute a suit in a civil court to establish the right which he claims :

Provided that the Crown or any Revenue Officer shall not be made a party to such suit.

(4) If the civil court decides that no arrear was due, and any immovable property has been sold for the recovery of the arrears, such sale shall become void.

(5) No person on whose behalf the Deputy Commissioner proceeds to recover an arrear under this section shall thereby be relieved of his responsibility for any arrear of land-revenue due by him.

139. (1) The Governor in Council may grant remission or suspension of land-revenue in years in which crops have failed in any area, and such remission or suspension shall be determined in accordance with rules made under this Law.

Remission or suspension of revenue on failure of crops.

(2) Every order made by a Revenue Officer under such rules shall be final.

RULES OF SUSPENSION AND REMISSION OF LAND REVENUE

1. Suspensions and remissions of Land revenue may be granted in unalienated villages in the case of -

State No. 3404-XII, of 1-10-29, as amended by State No. 2890-XII, of 17-7-31

(1) widespread calamities due to general crop failure;

(2) local calamities occasioned by hail, floods, locusts and the like

In alienated villages no suspension or remission will be allowed unless the Deputy Commissioner is able to secure a corresponding suspension or remission of the tenants' rents.

Widespread calamities.

2. On hearing that there has been a general failure of the crops in any part of his district the Deputy Commissioner shall cause early enquiries to be made into the condition of the affected tract and the degree of crop failure in each village or group of homogeneous villages. The enquiries should include a reference to the village panchayats, local board and leading agriculturists of the neighbourhood.
3. The degree of relief shall be the same throughout each village or homogeneous tract and no attempt shall be made to differentiate between the circumstances of individuals.
4. Relief shall be calculated according to A scale or B scale according to the previous revenue history of the tract. The A scale will be used in villages whose condition is normal and the B scale in those which have suffered from recent crop failure or deterioration. The sanction of the Commissioner shall be obtained to the application of the B scale except in villages in which there has been any general suspension of revenue in the previous year :—

A scale.

State of crop. (13½ annas = Normal = 100 American notation.)		Degree of relief.
6 annas or over	::	Nil.
4 annas or less than 6 annas		Half.
Less than 4 annas		All.

B scale

State of crop. (13½ annas = Normal = 100 American notation.)		Degree of relief.
8 annas or over	::	Nil.
Less than 8 annas and not less than 6 annas		Half.
Less than 6 annas		All.

In calculating the outturn for each village any shortage in the cropped area as compared with the normal shall be taken into consideration.

5. The Deputy Commissioner shall submit his proposals for suspensions to the Commissioner, and on receipt of sanction shall cause them to be announced to all concerned before the instalment of revenue to which they relate falls due :

Provided that if for any cause it appears probable that the Commissioner's orders cannot be received in time to allow of announcement before this date, the Deputy Commissioner may, after obtaining the requisite authority beforehand from the Commissioner, pass orders himself sanctioning the suspension required.

6. No revenue which has been suspended shall ordinarily be collected till one fair harvest subsequent to the failure has been reaped in the affected tract.

7. The amount of suspended revenue to be collected along with the ordinary demand shall be determined by the Deputy Commissioner according to the character of the harvest and shall be announced before the date on which the instalment concerned is payable.

8. Suspended revenue may, with the sanction of the Governor in Council, be remitted in part or in whole—

- (1) when the revenue which it is sought to remit has been suspended for three years;
- (2) in certain specified tracts when the amount suspended exceeds the annual revenue demand; in which case the amount in excess of the annual demand will ordinarily be remitted;
- (3) in cases where it is clear from the condition of the tract that it would be inadvisable to collect the suspended revenue or part of it.

Local calamities.

9. The foregoing rules shall also govern the procedure in the case of local calamities subject to the modifications prescribed in the following rules.

10. Relief shall be granted to individuals varying according to the damage done to the total holding of each.

11. Relief shall be granted on B scale if any general suspension of revenue was granted in respect of the previous year's crops in the village, otherwise on A scale.

12. Relief may be granted either by suspension or remission in the first instance. The Deputy Commissioner is authorized to remit land revenue up to Rs. 1,500 and the Commissioner up to Rs. 2,500 in connection with any single calamity, provided that all such remissions are reported for the information of the Governor in Council.

Notfn.
No. 2880-1208-
XII, d. 17-9-31.

B.—Recovery of arrears.

140. A statement of account, certified by the Deputy Commissioner or by the Tahsildar, shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear, and of the person who is the defaulter.

Certified
account to be
evidence as
to arrear and
defaulter.

Processes for
recovery of
arrears.

141. The Deputy Commissioner may recover an arrear of land-revenue * [or an arrear recoverable as an arrear of land-revenue] by any one or more of the following processes, namely :—

- (a) by service of a written notice of demand on the defaulter ;
- (b) by attachment and sale of the defaulter's movable property ;
- (c)* [in the case of an arrear of land-revenue] by attachment and sale of the holding on which the arrear is due ;
- (d) *in the case of an arrear recoverable as an arrear of land-revenue, by attachment and sale of the defaulter's immovable property ;
- (e)†
- (f) in the case of alienated holdings consisting of entire villages or shares of villages, by attaching and taking such holding under management :

Provided that—

- (i) the processes specified in clause (b) shall not permit the attachment and sale of the following articles, namely :—
 - (a) the necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ;
 - (b) tools of artisans and, if the defaulter is an agriculturist, his implements of husbandry and such cattle and seed as may, in the opinion of the Deputy Commissioner, be necessary to enable him to earn his livelihood as such ; and
 - (c) articles set aside exclusively for the use of religious endowments ;
- (ii)†

* Inserted by Government of India, Foreign and Political Department Notification No. 82-I, dated the 22nd February 1933.

† Omitted by Government of India, Foreign and Political Department, Notification No. 165-I-B, dated the 18th March 1937.

142. The costs of issuing and enforcing any process specified in section 141 shall be deemed to be land-revenue assessed on the holding in respect of which the arrear is due, and shall be recoverable as part of that arrear.

Costs recoverable as part of arrear.

143. The processes specified in section 141, clauses (a), (b) and (d) may be enforced either in the district in which the default has been made or in any other district.

Enforcement of processes in other districts.

144. (1) If proceedings are taken under this chapter against any person for the recovery of an arrear of land-revenue or of any sum recoverable as such, he may, at any time before property is knocked down at a sale pay the amount claimed and may, at the same time, deliver a protest signed by himself or by his authorized agent to the Revenue Officer taking such proceedings, and thereupon they shall be stayed.

Payment under protest and suit for recovery.

(2) Any person complying with the provisions of subsection (1) may institute a suit for the recovery of the money so paid and in such suit may, notwithstanding anything contained in section 140, prove that nothing was due or that the amount due was less than the amount for the recovery of which the proceedings were taken.

(3) The Crown shall not be made a party to any suit brought for the recovery of money paid under subsection (1), unless the arrear or sum was payable to Government.

145. (1) Attachments and sales of movable property under this chapter shall be made, as nearly as may be, according to the law for the time being in force for the attachment and sale of such property under the decree of a civil court.

Attachment and sale of movable property.

(2) Attachments of immovable property under section 141 shall be made, as nearly as may be, according to the law for the time being in force for the attachment of such property under the decree of a civil court.

Attachment of immovable property.

(3) After an attachment has been made, any private transfer or delivery of the property attached or of any interest therein shall be void as against claims enforceable under the attachment.

Claim by
third party
to property
attached or
proceeded
against.

146. (1) If any claim is set up by a third person to property attached or proceeded against under the provisions of this Chapter, the Deputy Commissioner shall inquire into the claim and may admit or reject it.

(2) The person against whom an order is made under sub-section (1) may institute a suit to establish the right which he claims to the property attached or proceeded against, but, subject to the result of such suit, if any, the order shall be final.

147.

148. (1) If an attachment has been made under section 141, *clause (f), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached village or share of a village under management.

(2) Such management shall ordinarily be effected through the agency of a co-sharer in the village who, in the opinion of the Deputy Commissioner, is most likely to discharge the duties properly, and is able to produce security to the satisfaction of the Deputy Commissioner for the proper discharge of his duties.

Failing any such co-sharer, the Deputy Commissioner may take the village under his own management, or may appoint any suitable person as agent.

(3) During the continuance of such attachment the defaulter and any co-sharers shall be excluded from possession of the village or share of a village attached, and the Deputy Commissioner or the agent appointed by him shall have all the rights of the said defaulter and co-sharers to manage the same and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as superior holder or co-sharers to any tenants thereof.

(4) The surplus profits of such village or share, after defraying the cost of the attachment and management, shall be applied, first, to the payment of any land-revenue becoming due in respect thereof during the continuance of such attachment, and next, to discharging the arrear for the recovery of which the attachment was made.

*Omitted by Government of India, Foreign and Political Department, Notification No. 16 5-I-B, dated the 18th March 1937.

†Inserted by Government of India, Foreign and Political Department, Notification No. 503-I, dated the 7th September 1933.

Attachment
and manage-
ment of
alienated
village.

(5) The attachment shall continue until the arrear is paid or realized from the profits of such village or share or the Deputy Commissioner reinstates the defaulter in possession.

149. (1) If the sale of any immovable property has been ordered under section 141 (c) ^{Proclamation of sale of immovable property.} [or (d)] the Deputy Commissioner shall issue a proclamation of the intended sale specifying the property to be sold, the land-revenue, if any, assessed thereon, the arrears due, the time and place of sale and any other particulars which the Deputy Commissioner may think necessary.

†(2) Every sale of immovable property under section 141 (c) shall transfer the holding free of all encumbrances imposed on it, and all grants and contracts made in respect of it, by any person other than the purchaser; and ^{Sales to confer unencumbered title.}

(3) Every sale of immovable property under section 141 (d) shall transfer only the right, title and interest of the defaulter.

150. (1) Every sale of immovable property shall be by public auction held either by the Deputy Commissioner or by a Revenue Officer appointed by him in this behalf. ^{Sale how, when and by whom to be held.}

(2) No such sale shall take place on a Sunday or other authorized civil court holiday, or until after the expiry of at least thirty days from the date on which the proclamation thereof was published.

(3) The officer holding the sale may, from time to time, postpone it for reasons to be recorded.

151. No Revenue Officer shall either in person or by agent, in his own name or in the name of another, or jointly or in shares with others, purchase or bid for, any immovable property which is being sold under the provisions of this chapter. ^{No Revenue Officer to bid}

152. If the arrear in respect of which the property is to be sold is paid at any time by any person before the lot is knocked down, the sale shall be stayed. ^{Sale to be stayed when arrear paid.}

*Amended by Government of India, 1954, Act No. 25, Section 3, (1954) and 1955, Act No. 25, Section 3, (1955).
†Amended by Government of India, 1954, Act No. 25, Section 3, (1954) and 1955, Act No. 25, Section 3, (1955).

Deposit by
purchaser.

153. (1) The person declared to be the purchaser shall deposit immediately twenty-five per centum on the amount of his bid, and, in default of such deposit, the property may be offered to the next highest bidder at his highest bid.

(2) If such offer is not made or accepted, the property shall forthwith be re-sold; and the costs of the first sale and any deficiency of price which may occur may be recovered from the defaulting purchaser by the Deputy Commissioner as an arrear of land-revenue. Any sum recovered as deficiency shall be deemed to be part of the sale-proceeds.

Purchase
money when
to be paid
and effect of
default.

154. (1) Unless an application has been made under section 155, the full amount of purchase-money shall be paid by the purchaser on or before the fifteenth day from the date of the sale and, if the purchase-money is not so paid, the deposit, after the expenses of the sale have been defrayed therefrom, shall be liable to be forfeited to Government and the property shall be re-sold and the defaulting purchaser shall forfeit all claims to the property, or to any part of the sum for which it may subsequently be sold.

(2) If the proceeds of the sale which is eventually made are less than the price bid by such defaulting purchaser, the amount of deficiency may be recovered from him by the Deputy Commissioner as an arrear of land-revenue; and such amount shall be deemed to be part of the sale-proceeds.

(3) In case the deficiency is not recovered the loss may, if the Deputy Commissioner so directs, be made good out of the deposit forfeited under sub-section (1).

Application
to set aside
sale on
deposit of
arrear, etc.

155. (1) Where immovable property has been sold under this chapter, any person, either owning such property or holding an interest therein by virtue of a title acquired before such sale may, at any time within thirty days from the date of sale, apply to the Deputy Commissioner to have the sale set aside on his depositing—

(a) for payment to the purchaser, a sum equal to five per centum of the purchase-money.

(b) for payment on account of the arrear, the amount specified in the proclamation of sale as that for the recovery of which the sale

was ordered, less any amount which may have been paid since the date of the sale on that account; and

(c) the costs of the sale.

(2) If such deposit is made within thirty days from the date of the sale, the Deputy Commissioner shall pass an order setting aside the sale :

Provided that, if a person applies under section 156 to have such sale set aside, he shall not be entitled to make an application under this section.

156. At any time within thirty days from the date of sale any person whose interests are affected by the sale may apply to the Deputy Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it and the Deputy Commissioner may, after giving notice to the persons affected thereby, pass an order setting aside the sale and may order re-sale; but no sale shall be set aside on such ground unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by such irregularity or mistake.

Application to set aside sale for irregularity etc.

157. (1) If no application under section 156 is made within the time allowed therefor, all claims on the ground of irregularity or mistake shall be barred.

Bar of claim founded on irregularity

(2) Nothing in sub-section (1) shall bar the institution of a suit in the civil court to set aside a sale on the ground of fraud or on the ground that the arrear for which the property is sold was not due.

158. No sale, after postponement for a period exceeding seven days under section 150, and no re-sale under section 154 or 156 shall be made until a fresh proclamation has been published as prescribed in section 149.

Proclamation before re-sale

159. On the expiration of thirty days from the date of the sale, if no application under section 155 or section 156 has been made or if such application has been made and rejected, the Deputy Commissioner shall make an order confirming the sale :

Confirmation or setting aside of sale

*Provided that, if the Deputy Commissioner has reason to think that the sale ought to be set aside—

(1) notwithstanding that no such application has been made, or

*Amendment sanctioned in Government of India, Foreign and Political Department Notification No. 624-I-B, dated the 14th November 1935.

- (2) on grounds other than those alleged in any application which has been made and rejected, or
- (3) notwithstanding that a period of thirty days from the date of sale has expired, he may, after recording his reasons in writing, set aside the sale at any time before making an order confirming the sale.

Refund of purchase-money when sale is set aside.

160. If the sale of any property is set aside under section 155, 156 or 159, any amount deposited by the original purchaser shall be repaid to him.

Purchaser to be put in possession and given certificate.

161. If the sale of any immovable property has been confirmed, the Deputy Commissioner shall put the purchaser in possession of such property, and shall grant him a certificate, specifying the date on which the sale is confirmed, the property sold and the name of the purchaser.

Application of proceeds of sale.

162. (1) The proceeds of every sale under this Chapter shall be applied, firstly, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale and, secondly, to the payment of any other arrear payable to the Crown by the defaulter, and the surplus, if any, shall then be payable to him, or where there are more defaulters than one, to such defaulters according to their respective shares in the property sold :

Provided that the surplus shall not be paid to the defaulter or defaulters until after the expiry of two months from the date of the sale in the case of movable property, or from the date of the confirmation of sale in the case of immovable property.

*(2) Notwithstanding anything in sub-section (1), the proceeds of sale under clause (d) of section 141 shall be applied first to the payment of arrears of land-revenue payable by the defaulter for the immovable property sold up to the date of the sale, and the surplus, if any, shall be applied in accordance with sub-section (1).

Purchaser not liable for land-revenue due prior to sale.

163. Notwithstanding anything in section 132 or section 133, the person named in the certificate of title as purchaser shall not be liable for land-revenue payable in respect of the land for any period previous to the date of the sale.

*. Inserted by Government of India, Foreign and Political Department Notification No. 555-I-B., dated the 1st October 1936.

164. The following moneys may be recovered as far as may be under the provisions of this chapter in the same manner as an arrear of land-revenue :—

Moneys recoverable as an arrear of land-revenue.

(a) all royalties, water rates, cesses, fees, charges premia, penalties, fines and costs payable or leviable under this Law or any other enactment for the time being in force relating to land-revenue ;

(b) all moneys falling due to the Crown under any grant, lease or contract which provides that they shall be recoverable in the same manner as an arrear of land-revenue ;

(c) all sums declared by this Law or any other enactment for the time being in force to be recoverable in the same manner as an arrear of land-revenue ; and

(d) any sum ordered by a liquidator appointed under sub-section (1) of section 42 of the Co-operative Societies Act, 1912, to be recovered as a contribution to the assets of a society or as the cost of liquidation ;

Provided that no action shall be taken on application for recovery of a sum specified in clause (d), unless such application is accompanied by a certificate signed by the Registrar appointed under section 3 of the Co-operative Societies Act, 1912, that the sum should be recovered as an arrear of land-revenue.

165. Every person who may have become a surety under any of the provisions of this Law, or under any other enactment or any grant, lease or contract whereunder the sum secured is recoverable from the principal as an arrear of land-revenue, shall, on failure to pay the amount or any portion thereof which he may have become liable to pay under the terms of his security bond, be liable to be proceeded against under the provisions of this chapter as if such amount or portion thereof were an arrear of land-revenue.

Recovery of moneys from surety.

C. Of a court's lien on crops.

166. When the crop, or any portion of the crop, of any land is sold, or disposed of, or otherwise disposed of, whether by order of a civil court or other public authority, or by private agreement, the Deputy Commissioner may prevent it from being taken from the land until any land revenue due thereon has been paid.

Preventative measures for arrears of land-revenue.

Deputy Commissioner may prevent reaping or removal of crop, appointing watchmen, if necessary.

167. The Deputy Commissioner may—

- (a) require that the crops growing on any land liable to the payment of land-revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;
- (b) direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;
- (c) cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land-revenue due in respect of the land to which such crop belongs.

Notification and enforcement of Deputy Commissioner's orders under section 167.

168. (1) The Deputy Commissioner's orders under either clause (a) or clause (b) of section 167 may be issued generally to all the holders of land liable to the payment of land-revenue to the Government in a village, or to individual holders only.

(2) If the order is general, it shall be made known by public proclamation.

(3) If the order is to individual holders, a notice thereof shall be served on each holder concerned.

(4) Whoever disobeys any such order after the same has been so proclaimed or a notice thereof has been served upon him, or abets, within the meaning of the Indian Penal Code, the disobedience of any such order, shall be liable, at the discretion of the Deputy Commissioner, to fine not exceeding double the amount of the land-revenue due on the land to which the crop belongs in respect of which the offence is committed. XLV of 1860.

169. The Deputy Commissioner shall not defer the reaping of the crop nor prolong its deposit unduly so as to damage the produce, and, if within two months after the crop has been deposited, the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this chapter, or sell such portion thereof as may be necessary for the realization of the land-revenue due and of all costs, and release the rest.

Reaping and harvesting of crop and release of the same in whole or in part.

170. If, at any time before a crop or portion thereof is sold under section 169, any person interested pays the costs incurred by the Deputy Commissioner and furnishes security to the satisfaction of the Deputy Commissioner for the payment of the revenue due, the Deputy Commissioner shall stay further proceedings and release the crop.

Relinquishment of precautionary measures on security being furnished.

CHAPTER XIII.—JAGLIA AND MAHAR CESS

171. (1) To provide for the remuneration of jaglias and village mahars the Governor in Council may levy a cess at such rate as he may by notification prescribe :

Cess on agriculturists

Provided that such rate shall not exceed twelve pies on each rupee of the amount on which the cess is to be calculated under this section.

(2) In an unalienated village such cess shall be payable by the occupants, or, in the case of alienated plots, by the holders thereof, and shall be calculated on the fair assessment of each survey number; and, where a survey number contains sub-divisions, the total amount of the cess in respect thereof shall be distributed among the sub-divisions in accordance with rules made under this Law.

(3) In a village in which the proprietary title has been conferred under the Waste Land Rules of 1865, half the cess calculated on the fair assessment of the village shall be payable by the superior holder and the other half by tenants other than ante-alienation and permanent tenants :

Provided that—

the superior holder may recover from ante-alienation tenants and permanent tenants the full cess calculated on the fair assessment of their holdings as though it were a part of their rent;

- (ii) the cess recoverable from tenants other than ante-alienation and permanent tenants shall be apportioned among them in proportion to the rent payable by each.

(4) In any other alienated village such cess shall be payable by the superior holder and shall be calculated in an unsurveyed village on the fair assessment of the village and in a surveyed village on the fair assessments of all the survey numbers in the village :

Provided that the superior holder may recover from ante-alienation tenants the cess calculated on their rents, and from other tenants a share of the balance of such cess in accordance with the following provisions :—

- (a) the total amount so recoverable shall bear the same proportion to the total cess demanded as the total amount of the tenants' rents other than ante-alienation tenants' rents bears to the aggregate amount of those rents and of the rental value of the land in the occupation of the superior holder and his co-sharers. Such rental value shall be calculated at an amount per acre equal to the average rent per acre paid by tenants other than ante-alienation tenants in the village in which the land is situated ;
- (b) the total amount recoverable shall be apportioned among the tenants in proportion to the rent paid by each ;
- (c) any sum recoverable from the tenants under the foregoing provisions shall be recoverable as if it were a part of the rent payable by them.

penalty for
excess levy.

(5) A superior holder who levies from a tenant, anything in excess of the amount legally recoverable under this section, shall, on the application of such tenant, be liable, by order of the Deputy Commissioner, to pay as penalty a sum not exceeding ten rupees, or if double the amount of the sum levied in excess exceeds ten rupees, not exceeding double such amount ; and such sum shall be paid to the tenant as compensation.—

RATE OF JAGLIA AND MAHAR CESS

Notfn.
No. 3711-2597
XII, d. 4-11-28.

In exercise of the powers conferred on it by section 171, sub-section (1) of the Berar Land Revenue Code, 1928, the Local Government is pleased to direct that, with effect from the 1st November 1928, the cess to provide for the remuneration

of jaglias and village mahars shall be levied at the rate of 12 pice in the rupee on the amount on which the cess is to be calculated in all the taluqs of Berar.

RULES REGARDING JAGLIA AND MAHAR CESS ON SURVEY NUMBERS AND SUB-DIVISIONS

1. The cess on a survey number shall be calculated at 12 ^{Notfn.} pies per rupee on the number of whole rupees in the fair assess- ^{No. 3104-XII,} ment, annas and pies being disregarded. ^{d.1-10-29.}

When a survey number contains sub-divisions, the cess for the whole survey number shall be divided amongst the sub-divisions in proportion to the fair assessment of each, fractions of a pice being ignored. The total of the cesses for the several sub-divisions shall then be made to agree with the cess for the whole survey number by adding one pice to the cess of as many sub-divisions as may be necessary, starting from the first.

172. (1) In areas which are not municipalities or notified areas constituted under the Central Provinces Municipalities Act, 1922, the Governor in Council may, to provide for the remuneration of jaglias and village mahars in addition to any cess levied under section 171, levy a cess on income derived from non-agricultural sources in accordance with the following scale, namely :—

- (i) from all persons in receipt of an annual income from such sources exceeding five hundred, but not exceeding two thousand rupees—a cess not exceeding two rupees per annum ;
- (ii) from all persons in receipt of an annual income from such sources exceeding two thousand, but not exceeding five thousand rupees—a cess not exceeding five rupees per annum ; and
- (iii) from all persons in receipt of an annual income from such sources exceeding five thousand rupees—a cess not exceeding ten rupees per annum.

(2) Where a person is in receipt of income from non-agricultural sources which arises in two or more places, he shall be assessed once only on his total income from such sources.

(3) The Governor in Council may make rules regulating the assessment and collection of cesses under this section.

*(4) After the commencement of Part III of the Government of India Act, 1935, only such cesses shall be

leviable under this section as were being levied immediately before that date and any such cesses shall only be leviable until provision to the contrary is made by the Central Legislature.

JAGLIA AND MAHAR CESS ON NON-AGRICULTURAL INCOME

Notfn.
No. 3712-2597-
XII, d. 14-11-
28.

In exercise of the powers conferred on it by section 172, sub-section (1), of the Berar Land Revenue Code, 1928, the Local Government is pleased to direct that, with effect from the 1st November 1928, the cess to provide for the remuneration of jaglias and village mahars shall be levied at the following rates in all the taluqs of Berar on incomes derived from non-agricultural sources :—

- (i) from all persons in receipt of an annual income from such sources exceeding five hundred but not exceeding two thousand rupees—two rupees per annum;
- (ii) from all persons in receipt of an annual income from such sources exceeding two thousand but not exceeding five thousand rupees—five rupees per annum; and
- (iii) from all persons in receipt of an annual income from such sources exceeding five thousand rupees—ten rupees per annum.

RULES

Notfn.
No. 3104-XII,
d. 1-10-29, as
amended by
Notfn.
No. 3601-1911-
XII, d. 1-11-
34, and Notfn.
33-383-XII,
d. 6-1-37.

2. A cess on income derived from non-agricultural sources shall be levied in all areas except the Chikalda civil station and the King Edward College Area, Amraoti, at the following rates :—

	Per annum. Rs.
(1) From all persons in receipt of an annual income from such sources exceeding Rs. 500 but not exceeding Rs. 2,000	2
(2) From all persons in receipt of an annual income from such sources exceeding Rs. 2,000 but not exceeding Rs. 5,000	5
(3) From all persons in receipt of an annual income from such sources exceeding Rs. 5,000	10

3. The patwari in consultation with the revenue patel shall prepare annually a register in Form A showing the names, sources and the estimated amount of income during the year ending at the nearest Diwali, of all persons who are in receipt of income from non-agricultural sources in each village in his charge. Provided that in the case of a person paying income-tax under the Income-tax Act, 1922, his income for the purpose of this rule shall be taken as that on which he is assessed to income-tax for the year then current. The register, or if in any village there are no such person a blank statement shall be signed by the revenue patel, and forwarded to the revenue inspector by September 15th and by a revenue inspector to the tahsil by September 25th.

CHAPTER XIV.—PRE-EMPTION

Definition of
occupant
in a survey-
number.

173. For the purposes of this Chapter an “occupant in a survey-number” means a person having the right of an occupant, whether in his sole right or jointly with others, in that survey-number, or in any portion of it.

Incidents of
the right of
pre-emption.

174. (1) The rights conferred by this Chapter upon the occupants in a survey-number in respect of transfers of interests in that survey-number shall be deemed to be rights of pre-emption within the meaning of paragraph (vi) of section 7 of the Court-Fees Act, 1870, and of article VII of the first schedule to the Indian Limitation Act, 1908, and they shall be enforceable only in the manner and to the extent provided in this Chapter.

(2) Such rights shall arise only in respect of unalienated lands held for agricultural purposes.

(3) Such rights shall not arise when an occupant in a survey-number transfers his interest or portion thereof to another occupant in that survey-number, or when the transfer is made with the consent, previously obtained in writing, of all the occupants in the survey-number :

Provided that where any occupant in a survey-number refuses his consent to any transfer, the rights of pre-emption of other occupants in the survey-number shall not be extinguished by reason of any consent they may have given.

(4) When any right of pre-emption in any interest in a survey-number has been enforced under any of the provisions of this Chapter, any transfer of such interest made subsequently to the transfer in respect of which the right arose, shall be voidable at the instance of the occupant enforcing that right.

(5) Where land situated in more than one survey-number is transferred, rights of pre-emption shall arise independently in regard to the portions of such land contained in each separate survey-number.

Mode of
service of
notices.

175. (1) The notices referred to in sections 176, 177 and 178 shall be given through the Tahsildar, who shall send a copy of the notice by registered post to every person whose name appears in the record-of-rights or register of mutation as an occupant in the survey-number concerned, and shall also cause a copy to be posted at the *chaudi*, and the contents thereof proclaimed by beat of drum in the village in which the survey number is situated or in any village from which it is cultivated.

(2) When the Tahsildar has complied with the provisions of sub-section (1), all occupants in the survey-number concerned shall be deemed to have been duly served with notice of the intended transfer.

(3) The date of service of such notice shall be deemed to be the date on which the registered letter would be delivered in ordinary course of post, or on which the copy of the notice was posted in the *chaudi*, or on which the proclamation was made by beat of drum, whichever is latest.

176. (1) Whenever an occupant in a survey-number proposes to sell the whole or any portion of his interest, he may give notice of his intention to all other occupants in the survey-number, intimating the extent of the interest to be sold and the price at which he is willing to sell. Pre-emption
on proposed
sale.

(2) Any other occupant in the survey-number may, within two months from the service of notice, deposit with the Tahsildar the price specified therein, for payment to the occupant proposing to sell, and shall thereupon have the right to purchase the interest at such price.

(3) An occupant who has given notice under sub-section (1) may, by written application made to the Tahsildar, withdraw it at any time before any deposit has been made under sub-section (2) and thereupon the Tahsildar shall not accept any deposit.

177. (1) Whenever a mortgagee by conditional sale obtains a final decree for foreclosure against the interest, or any portion thereof, of an occupant in a survey-number, he may give notice to all the other occupants in that survey-number intimating the extent of the interest foreclosed and the amount declared to be due by the final decree. Pre-emption
on fore-
closure.

(2) Any other occupant in the survey-number may, within two months from the service of notice, deposit with the Tahsildar the amount specified therein for payment to the mortgagee, and shall thereupon have the right to purchase the interest foreclosed at a price which shall comprise the amount deposited together with the interest on the principal sum secured by the mortgage, at the rate specified in the mortgage deed, from the date of the notice to the date of the deposit.

Pre-emption
on lease or
usufructuary
mortgage.

178. (1) Whenever an occupant in a survey-number transfers his interest, or any portion thereof, by usufructuary mortgage, or by a lease for a period exceeding fifteen years or containing a covenant for renewal whereby the total period of the successive leases shall exceed fifteen years, the mortgagee or lessee may give notice to all other occupants in the survey-number, intimating the extent of the interest transferred and the principal amount of such mortgage or the premium, if any, and rent and period of such lease.

(2) Any other occupant in the survey-number may, within two months from the service of notice, deposit with the Tahsildar the sum specified therein, if any, and declare his intention to acquire such mortgage or lease, and shall thereupon have the right to acquire for such sum, if any, the rights and liabilities of the mortgagee or lessee, as the case may be.

Priority in
pre-emption.

179. (1) When a right of pre-emption is claimed by more than one occupant in a survey-number the prior right shall belong—

(a) if the interest transferred is a share in or portion of a sub-division of a survey-number, to the occupant in the sub-division who is most nearly related to the occupant whose interest is being transferred, or if no occupant is related to him, to the occupant who has the largest interest in the sub-division;

(b) if no occupant in the sub-division wishes to exercise the right of pre-emption under clause (a) or if the interest transferred is not a share in or portion of a sub-division, to the occupant in the survey-number who is most nearly related to the occupant whose interest is being transferred, or, if no occupant is related to him, to the occupant who has the largest interest in the survey-number.

(2) If two or more occupants are equally entitled to the right, the person to exercise it shall be determined by lot.

Loss of right
of pre-emption.

180. After notice has been given in accordance with section 175, any occupant in the survey-number concerned who fails to make the deposit or declaration required by section 176, 177 or 178 and fails to bring a suit under section 182, shall be deemed to have waived his rights of pre-emption in regard to the transfer to which the notice relates.

181. A notice given and a deposit made under section 176 or 177 or a deposit and declaration made under section 178 shall be deemed to be a valid contract for the sale and purchase of the rights concerned, and may be enforced by either of the parties thereto, by a suit for specific performance by the party giving the notice, or by a suit for pre-emption by the party making the deposit.

Enforcement of right of pre-emption after making deposit.

182. (1) In addition to the rights conferred by sections 176, 177 and 178, the rights of pre-emption of an occupant in a survey-number shall include the right to pre-empt for a fair consideration, and such occupant may sue to enforce such right on the following grounds :—

Suit to pre-empt for a fair consideration.

(a) in the case of a proposed sale under section 176 that the price stated in the notice was not fixed in good faith ;

(b) in the case of foreclosure under section 177, that the amount stated in the notice was not due by the terms of the final decree, or that it exceeds the market value of the interest foreclosed ;

(c) in the case of a usufructuary mortgage or lease under section 178, that the principal amount, or the premium, or the rent stated in the notice was not fixed in good faith.

(2) A suit may be brought under this section without the deposit or declaration required by section 176, 177 or 178 having been made.

(3) Such suit shall be dismissed if it is not instituted within two months from the service upon the plaintiff of notice in accordance with section 175.

(4) When it is proved that any price, principal amount, premium or rent exceeds the figure which the interest sold, mortgaged or leased would fetch in the market, the court shall presume that such price, principal amount, premium or rent was not fixed in good faith and shall fix a fair consideration.

(5) Where such suit relates to the proposed sale of the whole or any portion of an occupant's interest in a survey-number, such occupant may at any time before the issues are framed intimate to the court that he does not wish to proceed with the sale, and thereupon the court shall dismiss the suit and order such occupant to pay all costs therein.

Suit to pre-empt when no notice given.

183. (1) When an occupant in a survey-number transfers his interest or any portion thereof by any of the transfers contemplated in sections 176 and 178, or suffers a final decree for foreclosure as contemplated in section 177 to be passed against him, and no notice has been given as required by these sections, the other occupants in the survey-number shall have a right to pre-empt the interest transferred.

(2) Such right may be enforced by civil suit, and in all such cases the court shall have power to examine the transaction and fix a fair consideration for the interest to be pre-empted.

Pre-emption on exchange.

184. (1) Where an occupant in a survey-number transfers his interest or any part thereof for a consideration which consists in whole or in part of land, the other occupants in the survey-number shall have a right to pre-empt the interest transferred.

(2) Such right may be enforced by civil suit, and in such suit the court shall first examine the whole transaction whereby the exchange was effected, and if it appears that it effected, a consolidation in the land held by either party to the transfer it shall dismiss the suit.

(3) If the court does not dismiss the suit under subsection (2) it shall proceed therewith and shall have power to fix a fair price for the interest to be pre-empted.

Decree in suits for pre-emption.

185. (1) The provisions of sub-rule (1) of rule 14 of Order XX of the First Schedule to the Code of Civil Procedure, 1908, shall apply to decrees in pre-emption suits under this Chapter; and for this purpose—

(a) the phrase “purchase-money” shall be deemed to include any sum admitted by the parties or found by the court to be due by the plaintiff as the price of a sale, the amount due on a final decree for foreclosure (together with interest, if any), the principal amount of a usufructuary mortgage, and the premium of a lease; and

(b) the deposit of a sum of money with the Tahsildar under the provisions of section 176, 177 or 178 shall be deemed to be payment of such sum into court.

(2) Where any sum of money has been paid into court or deposited with the Tahsildar the decree shall specify to whom such sum shall be paid.

(3) The court may also take all steps which in its opinion may be necessary for the proper disposal of the suit, including the enforcement of the execution of a sale deed, and the delivery of a deed of transfer to the party entitled to the possession thereof.

186. Rules may be made under this Law regulating the procedure of Tahsildars in giving and publishing notices and in receiving and disbursing deposits made under sections 176, 177 and 178. Power to make rules.

187. (1) Notwithstanding anything contained in section 174, sub-section (2), the Governor in Council may, by notification, extend the application of the provisions of this Chapter to any class of alienated villages. Power of Local Government to extend application of Chapter to alienated villages.

(2) Such notification shall be subject to the condition of previous publication as if it were a draft published under the provisions of section 22 of the Central Provinces General Clauses Act, 1914.

14. (3) Where such notification has been finally published in respect of any class of alienated villages, then for the purposes of this Chapter the village shall be regarded as a survey-number and the superior holder and each of his co-sharers as an occupant in the survey-number :

Provided that nothing in this section or in any notification made thereunder shall create any right of transfer which does not already exist.

APPLICATION OF CHAPTER XIV TO IZARA VILLAGES

In exercise of the powers conferred on him by section 137, sub-section (1) of the Berar Land Revenue Code, 1928, the Governor in Council is pleased to extend, after previous publication, the application of the provisions of Chapter XIV of the said Code to all alienated villages leased under the Waste Lands Rules of 1865 in which proprietary rights have been conferred by Government. Notfn. No. 218-XII, d. 21-1-31.

CHAPTER XV.—MISCELLANEOUS

188. Subject to such conditions and to the payment of such fees as may be prescribed by rules made under this Law, all revenue records, maps, and land records which have been prepared or are required to be prepared or kept under this Law or any other enactment for the time being in force, shall be open to the inspection of the public at reasonable hours, and certified extracts therefrom, or certified copies thereof, shall be given to all persons applying for the same. Inspection and copies of maps and land records.

I.—GRANT OF COPIES OF REVENUE RECORDS AND MAPS

RULES

Notfn.
No. 2310-1250-
XII, d. 18-7-29,
as amended by
Notfn.
No. 3203-2141-
XII, d. 15-10-
31, Notfn.
No. 266-2832-
XII, d. 24-1-33,
Notfn. No. 268-
3391-XII,
d. 24-1-33 and
Notfn. No. 264-
XII, d. 24-1-33.

1. Applications for copies may be presented in person or by an agent, or sent by post to the head copyist of the office at the place where the record from which the copies are desired will eventually be deposited for safe custody. Applications for copies of records which are kept for a term of years at a tahsili and thereafter are deposited in the Deputy Commissioner's record room shall be made to the ministerial officer of the tahsil (hereinafter called the head copyist for the purposes of these rules) until the records are transferred to the Deputy Commissioner's record room. Applications for copies of records in charge of the village officers may be made to the Tahsildar who shall cause them to be prepared by the patwari.

Explanation.—Under this rule applications for copies of settlement records are to be made to the head copyist of the Deputy Commissioner's office even when settlement is in progress.

2. Every application, save those exempt from court-fees, shall bear a court-fee label of two annas, provided that an application sent by post may be sent without a label, in which case the head copyist shall see that a label of two annas is affixed to the application and punched, the cost thereof being debited to the applicant's account.

3. Every application shall be accompanied by an advance sufficient to cover the estimated cost of the copy applied for, and also, if the copy applied for is of the kind mentioned in rule 12, by the requisite non-judicial stamp. In the case of an application sent by post, the advance shall be remitted by money order. An application received by post before the arrival of the connected advance shall not be registered or acted upon until receipt of the advance. Should an advance be received before the connected application, the money shall forthwith be sent by the head copyist to the treasury or sub-treasury, as the case may be, after making the requisite entry in pass book B and after entering the name of the remitter in column 8. The Treasury Officer shall enter the item under the head "Miscellaneous". On receipt of the connected application, the head copyist shall obtain the money from the treasury or sub-treasury. If no application is received within thirty days, the head copyist shall demand return of the money so that action may be taken under rule 20.

4. If an applicant who has presented his application in person desires the copy to be sent by post, he shall state in his application or in a subsequent communication the address to which the copy should be sent and the copy shall be sent accordingly. Similarly, if the applicant who has sent his application by post desires to take delivery himself, he shall state the fact and the copy shall be retained for such delivery.

5. On each application the head copyist shall endorse the date of its receipt and shall initial such endorsement. If the

applicant is present in person, the head copyist shall immediately give a receipt in the prescribed form for the advance received with the application.

6. (1) Copies of documents, such as registers and statements which, cannot by their nature be prepared on copy sheets, shall be given on the appropriate forms.

(2) Copies of maps shall be made on tracing cloth to be supplied by the head copyist. The fee for a copy of a map shall be one rupee for every certified copy of a survey-number or subdivision of a survey-number including details of all measurements. Such fees shall be affixed to the copy in the form of court-fee labels.

(3) The fee for a certified copy of a serial number in the record of rights, including entries cancelled by subsequent mutations, or of a serial number in the register of mutations, shall be eight annas. The fee for a certified copy of each entry in the register of vacant sites available for building in the village site of villages, other than those to which the nazul rules apply, shall be eight annas and for a copy of the trace of each vacant plot shall be one rupee.

Notfn.
No. 3203-2141-
XII, d. 15-10-31.

Except in the Melghat taluq the fee for copies prepared by a patwari of entries in records in his custody shall be recovered in cash and shall be placed in the treasury as revenue deposit payable to the patwari concerned through the Tahsildar. Such deposits shall be made only twice a month, viz., on the 10th and 25th.

(4) Except as provided for in sub-rules (2) and (3) the copying charges shall be calculated at the rates prescribed in rule 8, the printed matter being treated as matter copied.

II.—PREPARATION AND DELIVERY OF COPIES

7. Copies exempt from copying charges and those required by officers of Government or of the Court of Wards or of Co-operative Credit Societies for official use shall be made on plain paper, free of cost.

8. Except as provided for in rules 6 and 12 all copies shall be prepared on sheets of plain water-marked foolscap paper, which shall be obtained from the treasury or sub-treasury. The fee for preparing copies shall be four annas for every 180 English words or 270 vernacular words or fraction thereof, four figures counting as one word. But when a copy of an order passed by the Governor in Council and marked for publication as a revenue ruling is applied for by an approved law reporter for purposes of reporting the fee shall be rupee one for each order. Both sides of the paper are to be used, whether the copying be in manuscript or in type. One sheet should ordinarily contain 720 English words in type or 180 English words in manuscript or 660 vernacular words in type or 270 vernacular words in manuscript. The exact number of words in a particular line is immaterial so long as the total on a sheet approximates sufficiently closely to the standard required. Documents written in Modi shall be copied in Balbodh character. At the top of each page a margin of an inch and a half is to be left for the affixing

of the necessary court-fee labels. There will also be a margin of one inch on the left of the front and on the right of the back of a sheet. A margin of a quarter of an inch should be left on the right of the front and on the left of the back of the sheet. Similarly, there will be a margin of half an inch at the foot of each page. It should not be necessary to rule these margins, but if they are to be ruled, this should be done in pencil only. For type written copies, the usual double line spacing should be used. For manuscript copies, the most convenient spacing is fifteen lines on each page and six English or nine vernacular words to a line.

9. The value of the court-fee label to be attached to the sheet depends on the total number of words written or typed, the labels being affixed on the right hand side to the top margin of the front page. On the back of each sheet on the top margin the stamp "Head Copyist, Deputy Commissioner's office," or in the case of copies granted at a tahsili the seal of the Tahsildar shall be affixed.

10. Immediately below the top margin in the first sheet used for each copy shall be typed or written the words "Copy of" with a brief description of the document to be copied, *e.g.*, order, deposition of witness, application, etc. The description of the case shall include the number and year of the case, the name of the Revenue Officer to whose file the case belongs, the names of the parties and the date of the order or other proceeding. When the copy is a copy of a document in an appellate record or a miscellaneous case connected with an original case, the description of the appellate or miscellaneous case, as the case may be, as well as that of the original case, shall be given.

11. On the back of the last sheet in each copy shall be typed or otherwise legibly endorsed the following table:—

Appli- cation for copy received on	Appli- cant told to appear on	Appli- cant appear- ed on	If copying not begun for want of correct in- formation, date on, which full information was sup- plied	Copying stopped or copy not sent for want of funds on	Sub- se- quent ad- vances paid on	Copy ready on	Copy deli- vered or des- patch- ed on	Court fee rea- lized
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Copyist.

Comparer.

Head Copyist.

Such words in the table as do not apply to the case in hand should be scored out. The dates to be entered in the table shall be entered in figures, not in words, and all corrections shall be properly attested. When certifying a copy the head copyist or the Tahsildar, or Naib-Tahsildar, as the case may be, shall satisfy himself that these entries have been correctly made.

The full particulars in the table shall only be furnished in respect of copies of judgments and orders which form the basis of an appeal; in other cases such as copies of depositions and of village records, etc., entries in columns 1, 7 and 8 only will be made.

12. If the copy is of a kind requiring a stamp under article 24, Schedule I to Act II of 1899, it shall be commenced on an impressed non-judicial stamp paper of the value required and shall, if not finished on the front thereof, be completed on an ordinary plain sheet or sheets. If the copy is finished on the non-judicial stamp itself, the endorsements required by rule 11 shall be made on the back of the stamp. A court-fee label of the required value shall be affixed to the non-judicial stamp and also to each plain sheet at the rates prescribed by rule 8.

13. Under no circumstances shall a copy be carried beyond the number of sheets already paid for. Whenever copying cannot be taken in hand or completed owing to want of funds or incorrect information having been given, the head copyist shall report the matter to the Superintendent or the Tahsildar, as the case may be, and shall also inform the applicant when he attends, or sends an intimation by a service postcard to the applicant who has asked for the copy to be supplied by post.

14. When copies are ready, they shall, before delivery or despatch, be signed by way of attestation by the head copyist or in case of copies granted at a tahsili by the Tahsildar or the Naib-Tahsildar. The attesting officer shall before signing see that each sheet bears the court-fee label or labels required by rule 8 foregoing and that all such labels are punched by a punch marking the letter C.

15. Copies shall be delivered to applicants personally or to their agents or counsel or shall be sent by post, if so desired, to their addresses by registered packet.

16. If the amount of the advance in the case of an application in which the copy is to be sent by post is more than sufficient to cover all charges (including court-fees, postage, registration and money order fees) the surplus shall be remitted, along with the copy by money order, or, if it does not exceed seven annas in postage stamps. If the copy is to be delivered to the applicant in person and he fails to appear, the balance of advance after deduction of all charges shall be remitted by money order to the applicant within a month of the date on which he was told to appear.

17. Applications will be received and copies delivered daily between such hours as the Deputy Commissioner may decide. Enquiries shall be attended to throughout the usual office hours.

(2) column 4 of the detailed account book, and it shall be entered in the list of unexpended advances in the manner specified in rule 20 above. Copies sent by post and received back shall be deposited in the record room.

23. The head copyist shall ordinarily indent for plain sheets from the treasury or sub-treasury once a month. To minimize work in the district treasury, the indent should be for a whole number of reams of 480 sheets. The head copyist should ordinarily never have more sheets in stock than will suffice for two months and should never have less sheets than will suffice for one month. The indent should be in duplicate on unofficial memorandum forms. One copy will ultimately remain in the treasury office and one with the head copyist. The indent should be countersigned by the Superintendent or a gazetted officer and in a tahsili by the Tahsildar or his Naib. The head copyist shall indent from the treasury or sub-treasury for court-fee labels whenever required. The indents shall invariably be for whole sheets, whatever be the denomination of the label. The labels required will be one anna, four annas, eight annas, twelve annas and one rupee. There are always thirty-six labels to a sheet. The head copyist shall not obtain labels from a stamp-vendor without the express permission of the Tahsildar or gazetted officer in charge of the copying department. Court-fee labels shall be reckoned as cash for all account purposes and shall be sent daily along with the cash to the treasury in a sealed leather bag. All transactions relating to disposal of court-fee labels will appear in the detailed account book. The head copyist shall every day give to each copyist as many blank sheets as will approximately suffice for the day's work and shall see that each evening each copyist returns to him the number given, whether used, unused or spoilt. Notes of these transactions shall be kept in a rough note book. The head copyist is responsible for the correct balance of blank sheets.

24. In the duplicate receipt book shall be entered all sums paid by applicants personally as an advance required for the copy and also all balances returned to applicants personally. As soon as the first advance is received and entered, the outer foil shall be torn off and made over to the payer, and when the copy, with balance, if any, is delivered it will be taken back and affixed to the inner foil. Receipts from applicants who sent their applications by post, but have obtained delivery of copies with refund of balance in person, should be taken in a separate receipt book to be maintained for the purpose, entries being confined to such columns as are appropriate. If more money has been advanced than was required, the payer shall receive back the excess at the time the copy is delivered.

25. On receiving an application presented by hand the head copyist shall, if the applicant does not desire the copy to be sent by post, forthwith fix and intimate to the applicant a date within seven working days of the date of presentation on which he should attend to ascertain whether the copy is ready or whether any further advance is required. Should the copy not be complete on the date so fixed, the applicant shall be directed to attend on another date within seven working days of the first

date fixed, and so on. The successive dates on which the applicant is told to attend and on which he attends shall be entered in both foils of the duplicate receipt book and in the register of applications.

26. If the copying work is in arrears or for any other sufficient reason, the head of the office may, by general or special order, direct that the period between presentation and first attendance or the period between the dates fixed for two consecutive attendances shall consist of a fixed number of days in excess of seven, and shall at the same time determine the period for which the order is to remain in force.

27. The Deputy Commissioner shall record an order fixing the maximum balance of cash to be kept by the head copyist in his own hands, and the amount so fixed shall not in any case exceed Rs. 200 at headquarters and Rs. 30 at each outlying place, without his special sanction. Each head copyist shall furnish security in a sum to be fixed by the Deputy Commissioner which shall not be less than 25 per cent in excess of the maximum cash balance. Each head copyist shall be provided with a box having a good lock for the custody of blank sheets, his cash balance shall be sent in a sealed leather bag with his dāk book to the treasury daily not later than 4.45 p.m.

28. Whenever the amount of money and court-fee labels in the hands of the head copyist at the close of the day's business is greater than the amount fixed under the preceding rule the excess or such part thereof as may be available in cash shall be entered in pass book A, and paid by the head copyist into the treasury or sub-treasury, as the case may be, to be treated as a revenue deposit. Unexpended advances mentioned in rules 20 and 22 shall be paid into the treasury or sub-treasury immediately applications are deposited in the record room and money orders are returned unpaid. Action in respect of an advance received by money order without an application is to be taken under rule 3.

29. On receiving the money from the head copyist, the Treasury or Sub-Treasury Officer, as the case may be, shall enter the total amount as a single item in the register of revenue deposit receipts, describing it as "Copying" fees received from the head copyist, without giving a number to the item or recording any other particulars.

30. When the head copyist requires repayment of any amount paid into the treasury under rule 28 he shall enter it in the pass book which will be presented to the treasury. The date and amount of each deposit out of which repayment is desired shall be given in columns 4 and 5 of the pass book. In every case of withdrawal other than that of an unexpended advance (rule 20 or 22) the oldest deposit available shall be drawn upon; for this purpose, against each withdrawal which finally exhausts a deposit and also against the entry relating to the original deposit, a remark to the said effect shall be made in the last column of the pass book showing transactions with the treasury. The book shall be presented in the treasury or sub-treasury, as the

case may be, accompanied by a simple receipt therefor. The receipt shall be countersigned by—

- | | |
|---|---|
| (a) The Deputy Commissioner or one of his Assistants. | Gazetted At the headquarters of a district. |
| (b) The Sub-Divisional Officer | .. At the headquarters of a sub-division. |
| (c) The Tahsildar or Naib-Tahsildar | .. At the headquarters of a tahsil. |

If the balance in deposit at the credit of the head copyist is sufficient, the treasury or sub-treasury, as the case may be, shall make the payment and shall enter the items in the register of repayments of revenue deposits without number as "Repayment of copying fees to head copyist". An unexpended advance once paid into the treasury or sub-treasury shall not be refunded to the applicant until it has been withdrawn from the treasury or sub-treasury.

IV.—SUPERVISION

31. The Superintendent or the Tahsildar shall test the work of the copyist from time to time by selecting sheets at random and counting the words entered on each. He shall daily examine the account book and the detailed account book with reference to the other registers. He shall also in the first week of each month, examine the head copyist's account for the preceding month with reference to the pass book A in order to ascertain whether each sum in the pass book has been accounted for in the account book.

32. The head of the office or a subordinate gazetted officer deputed by him shall examine the several registers of the head copyist in the first week of each month with the object of seeing whether the work of copying is being regularly done, the excess payments properly refunded and the excess over the maximum balance deposited in the treasury or sub-treasury, as the case may be, in accordance with rule 28. He shall also satisfy himself by an examination of the account book that the balance of sheets will suffice for a period of not less than one month and not more than two months. He shall also verify the correctness of the accounting for plain sheets as explained in rule 23. The head of the office shall also examine a certain number of applications pending over one month in which copying has been stopped for want of funds or proper information regarding the document to be copied to see if any were rightly deposited in the record room.

33. The closing cash balance, inclusive of unused court-fee labels in the hands of the head copyist which is shown in column 13 of the account book, shall be verified at least once a quarter by the head of the office or a subordinate gazetted officer deputed by him. The process to be adopted is as follows:—

A list of all advances received in respect of applications other than (i) those deposited in the record room under rule 20, and (ii) those in which copy has been delivered or the amount

advanced has been refunded shall be prepared from the register of applications. To the total of the list shall be added the progressive total or balance in the list of unexpended advances. From the sum thus arrived at shall be deducted—

- (i) the value of court-fee labels used in respect of applications in the foregoing list of advances received;
- (ii) the balance in the treasury or sub-treasury, as the case may be; and
- (iii) the cost of court-fee labels affixed by the head copyist to postal applications under rule 2.

The difference thus found should tally with the closing balance shown in the account book and with that in the head copyist hands.

V.—ACCOUNTS FOR ACCOUNTANT-GENERAL

34. In compiling the extract registers of receipts and repayments of deposits for submission to the Accountant-General, the items entered in the deposit registers of the treasury without number (*vide* rules 29 and 30) shall not be reproduced in detail: the monthly totals only shall be entered at the foot as amounts of copying fees received from and repaid to head copyist. The total amount repaid from the deposits made in each financial year shall, however, be given separately. Thus, supposing the total amount of copying fees repaid during a month to be Rs. 175, the note would stand as follows:—

			Rs.
On account of deposits made in	1910-11	..	23
Do.	do.	1911-12	.. 34
Do.	do.	1912-13	.. 118
			<hr/>
	Total	..	175

35. Early in March, a list of items lapsing to Government shall be prepared and this list, after being compared by the Deputy Commissioner or one of the Assistants with the list of unexpended advances and the register of applications, shall be submitted to the Accountant-General immediately after the 31st March, in accordance with rule 653 of the Financial Rules. The list shall show distinctly how much is now to be credited to Government as lapsed out of the amounts received during each separate financial year. Thus, supposing Rs. 45 are to be credited to Government as lapsed, the note would stand as follows:—

			Rs.
On account of	1909-10	..	6
Do.	1910-11	..	5
Do.	1911-12	..	34
			<hr/>
	Total	..	45

Refunds of amounts included in this list shall only be payable with the sanction of the Accountant-General under rule 654 of

the Financial Rules, except that repayments of such deposits up to a limit of Rs. 5 may be made by the Treasury Officer.

Similarly, the account particulars, submitted to the Accountant-General by the treasury under rule 650 of the Financial Rules, shall show the particular year on account of which there are balances of copying fees outstanding in the head copyist's register.

VI.—ELIMINATION

36. Each register and paper specified below shall be preserved for the period noted against it:—

Name of register or paper	Period for which to be preserved
(i) Head Copyist's Register of Applications for copies	} Six years.
(ii) Account Book	
(iii) Detailed Account Book	
(iv) Duplicate Receipt Book	
(v) Pass Books A and B	
(vi) List of Unexpended Advances	
(vii) Ledger account of copying fees payable to patwaris	
(viii) Counterfoils of postal money orders	} Three years.
(ix) Dak Book	
(x) Applications for copies in which copies have been delivered or in which advances have been refunded without preparing copies or which are received by post unaccompanied by advance and for which no advance is subsequently received.	} Six months from date of delivery or refund.
(xi) All other applications	} Three years.
(xii) Copies undelivered	

In the Court of

Head copyist's register of applications for copies for193 .

Serial No.	1	2	3	Date or dates on which								Amounts						18	Remarks
		Name and address of applicant	Description of document, copy of which is applied for	4	5	6	7	8	9	10	11	12	13	14	15	16	17		
				Application was received	Applicant was told to attend	Applicant attended	Copy not begun or stopped for want of correct information	Copy not begun or stopped for want of funds	Correct information or funds were received	Copy was ready	Copy was delivered or despatched and balance refunded to applicant	Received (including unpaid money order refunding balance due to applicant)	Court-fee labels affixed to copies	Court-fee labels affixed to applications and money order commissions	Postage and registration	Refunded to applicant	Unexpended advance		

In the Court of.....

II-91]

Account Book to be kept by the Head Copyist.

1	Date	
2	Opening cash balance	Rs.
3	Amount withdrawn from treasury	Rs.
4	Advances received from parties	Rs.
5	Advances and other amount received by post	Rs.
6	Total cash receipts	Rs.
7	Total of columns 2 and 6	Rs.
8	Amount refunded to applicants	Rs.
9	Incidental charges, e.g., postage and registration charges, money order commission and court-fees on application for copies	Rs.
10	Amount paid for court-fee labels affixed to copies	Rs.
11	Amount deposited in treasury	Rs.
12	Amount deposited as copying fees payable to patwaris	Rs.
13	Total cash expenditure	Rs.
14	Closing cash balance	Rs.
15	Opening balance	
16	Number of plain sheets received	
17	Total number of plain sheets	
18	Number of plain sheets used	
19	Closing balance	
20	Initials of Superintendent	
21	Remarks	

DUPLICATE RECEIPT BOOK [Outer foil.]

(This must be produced at the time of taking the delivery of copy)

No. of 19 .
Name of applicant—
Description of document required—

1	2	3	4	5	6	7	8
Date of payment of each advance	Amount of each advance	If copying not begun for want of correct information, date on which full information was supplied	Dates on which the applicant is told to appear from time to time	Initials of head copyist	Dates on which the applicant has appeared from time to time	Date on which copies stopped for want of funds	Unexpended balance returned to applicant
	Rs. a. p.						Rs. a. p.

II (a)—135] DUPLICATE RECEIPT BOOK [Inner foil.]

No. of 19 .
Name of applicant—
Description of document required—

1	2	3	4	5	6	7	8	9
Date of payment of each advance	Amount of each advance	If copying not begun for want of correct information, date on which full information was supplied	Dates on which the applicant is told to appear from time to time	Signature of applicant	Dates on which the applicant has appeared from time to time	Date on which copying stopped for want of fund	Unexpended balance returned to applicant	Signature of applicant by way of acknowledgment of receipt of copy and money refunded with date
	Rs. a. p.						Rs. a. p.	

11-201

Wak Book of the Court of

Date and hour of despatch	Number of case, if any	Brief description of paper or article sent	Person to whom sent	Signature of person receiving	Remarks, viz., name of post or name of vessel
1	2	3	4	5	6
					<p>1. [illegible]</p> <p>2. [illegible]</p> <p>3. [illegible]</p> <p>4. [illegible]</p> <p>5. [illegible]</p> <p>6. [illegible]</p> <p>7. [illegible]</p> <p>8. [illegible]</p> <p>9. [illegible]</p> <p>10. [illegible]</p> <p>11. [illegible]</p> <p>12. [illegible]</p> <p>13. [illegible]</p> <p>14. [illegible]</p> <p>15. [illegible]</p> <p>16. [illegible]</p> <p>17. [illegible]</p> <p>18. [illegible]</p> <p>19. [illegible]</p> <p>20. [illegible]</p> <p>21. [illegible]</p> <p>22. [illegible]</p> <p>23. [illegible]</p> <p>24. [illegible]</p> <p>25. [illegible]</p> <p>26. [illegible]</p> <p>27. [illegible]</p> <p>28. [illegible]</p> <p>29. [illegible]</p> <p>30. [illegible]</p> <p>31. [illegible]</p> <p>32. [illegible]</p> <p>33. [illegible]</p> <p>34. [illegible]</p> <p>35. [illegible]</p> <p>36. [illegible]</p> <p>37. [illegible]</p> <p>38. [illegible]</p> <p>39. [illegible]</p> <p>40. [illegible]</p> <p>41. [illegible]</p> <p>42. [illegible]</p> <p>43. [illegible]</p> <p>44. [illegible]</p> <p>45. [illegible]</p> <p>46. [illegible]</p> <p>47. [illegible]</p> <p>48. [illegible]</p> <p>49. [illegible]</p> <p>50. [illegible]</p> <p>51. [illegible]</p> <p>52. [illegible]</p> <p>53. [illegible]</p> <p>54. [illegible]</p> <p>55. [illegible]</p> <p>56. [illegible]</p> <p>57. [illegible]</p> <p>58. [illegible]</p> <p>59. [illegible]</p> <p>60. [illegible]</p> <p>61. [illegible]</p> <p>62. [illegible]</p> <p>63. [illegible]</p> <p>64. [illegible]</p> <p>65. [illegible]</p> <p>66. [illegible]</p> <p>67. [illegible]</p> <p>68. [illegible]</p> <p>69. [illegible]</p> <p>70. [illegible]</p> <p>71. [illegible]</p> <p>72. [illegible]</p> <p>73. [illegible]</p> <p>74. [illegible]</p> <p>75. [illegible]</p> <p>76. [illegible]</p> <p>77. [illegible]</p> <p>78. [illegible]</p> <p>79. [illegible]</p> <p>80. [illegible]</p> <p>81. [illegible]</p> <p>82. [illegible]</p> <p>83. [illegible]</p> <p>84. [illegible]</p> <p>85. [illegible]</p> <p>86. [illegible]</p> <p>87. [illegible]</p> <p>88. [illegible]</p> <p>89. [illegible]</p> <p>90. [illegible]</p> <p>91. [illegible]</p> <p>92. [illegible]</p> <p>93. [illegible]</p> <p>94. [illegible]</p> <p>95. [illegible]</p> <p>96. [illegible]</p> <p>97. [illegible]</p> <p>98. [illegible]</p> <p>99. [illegible]</p> <p>100. [illegible]</p>

Ledger Account of copying fees payable to patients.

Name of patwari in full

Name of village

Serial No. of application in the register of applications for copies	Amount of copying fees credited to revenue deposits as payable to patwari	Challan No. and date	Date of payment	Amount paid to patwari	Signature of patwari in token of receipt of payment	Signature of officer before whom payment is made	Remarks
1	2	3	4	5	6	7	8

INSPECTION OF REVENUE RECORDS, MAPS AND
LAND RECORDS

Notfn.
No. 1480-875-
XII,
d. 28-4-32,
and Notfn.
No. 2889-T-42-
XII, d. 3-9-34.

1. Subject to the rules hereinafter contained, all records and proceedings under the Code shall be open to inspection :

Provided that, if the Deputy Commissioner or any Revenue Officer placed in charge of the record room considers that any record of which inspection is sought is of a confidential nature or that the inspection would be prejudicial to public interests, he may record an order refusing inspection.

2. *Inspection of pending records.*—The record of a case which is pending or which has been decided but the record of which has not been deposited in the record room may be inspected by a party thereto or by his pleader or recognized agent, free of charge.

Any other person desiring to inspect such records shall obtain the permission of the officer before whom the case is pending or by whom the case has been decided or, in their absence, of the Senior Revenue Officer present at headquarters by presenting an application stating therein the nature of the interest for the protection of which inspection is sought. On permission being granted, inspection shall be allowed on payment of inspection fee. The record of a pending case includes the record of a decided case called for in connection with a pending case.

3. *Inspection by the public of the records deposited in the record room.*—Inspection of record deposited in the record room shall be allowed with the permission of the Deputy Commissioner or such officer as he may appoint on payment of an inspection fee.

4. *Inspection by the Government officers or by officers of the Court of Wards or of the Co-operative Societies.*—Inspection of any record, by Government officers, or other persons duly authorized in this behalf for Government purposes, or by an official of the Court of Wards for the purposes of that court, or by officers of any registered co-operative society requiring *bona fide* for the business of the society details of land in the possession of members of rural societies, shall be allowed without an application and free of charge.

5. *Inspection book.*—A book called the inspection book, in the form appended to these rules, shall be kept by each court and also by the record-keeper, and every person desiring inspection shall fill in the particulars in columns 1 to 4. Before the inspection is begun the permission of the officer shall be taken by the court reader or by the record-keeper, as the case may be, by obtaining the officer's initial in column 5 of the inspection book.

6. *Inspection fee.*—The inspection fee chargeable under rules 2 and 3 shall be Re. 1 for the first hour and annas eight for any subsequent hour or portion thereof for every record inspected. The fee shall be prepaid in court-fee stamps and shall in no case be refunded. The record-keeper, or in the case of a court such officer as the Presiding Officer may direct to maintain the inspection book, shall affix the stamps in column 8 of

the book and cancel them in the manner prescribed in section 30 of the Court Fees Act, 1870.

7. *Place and time for inspection.*—The inspection shall be made at such time, in such place and in the presence of such official as the Presiding Officer, or in the case of records deposited in the record room the record room officer, may direct.

8. *General.*—The use of pen and ink during the inspection is strictly prohibited. Pencil and paper may be used for making any notes or copies from the record but no marks shall be made on any record or paper inspected. Any person infringing this rule may be deprived by the order of the Deputy Commissioner, or the Presiding Revenue Officer, of the right of inspection for such period as he may direct. Such an order, when passed by a Revenue Officer subordinate to the Deputy Commissioner, shall be subject to the latter's approval.

9. It shall be the duty of the official supervising the inspection of a record to see that no alterations are made in it, or papers abstracted, and that it is returned in its original condition when the inspection is over. He shall permit none but the applicant himself to inspect the record or to take notes or copies therefrom. The inspection must ordinarily be completed and the record returned within the office hours of the day on which the record was taken out for examination.

10. If the applicant fails to make inspection within one week from the date on which inspection was ordered, the order shall lapse and no further inspection shall be allowed without obtaining a fresh order.

11. *Inspection of land records.*—The village officers shall allow any one interested to inspect, free of charge, any records in their custody and to take notes of the same.

NOTE.—The word "record" in these rules shall include any register, map or book maintained under the Code.

12. The record of rights, mutation register and register of disputes of towns of which there has been a town survey and settlement shall be open to inspection, free of charge, at such times and places as the Deputy Commissioner may in each case appoint.

Inspection Book.

Date	Signature and occupation of applicant for inspection	Record book or register of which inspection is sought	Capacity in which inspection is sought	Initials of officer ordering inspection	Time occupied in inspection		Stamp affixed	Remarks.
					From	To		
1	2	3	4	5	6	7	8	9

189. All records which have been, or may be, prepared by any hereditary officer or village officer in pursuance of the duties of his office or by order of the Crown or any former Government, are hereby declared

Government's ownership of certain records.

to be the property of the Crown for the purposes of the Province, and the Deputy Commissioner is hereby empowered to demand their production.

Forfeiture or assessment of alienated land on breach of conditions of tenure.

190. (1) If alienated land has been granted on condition that the holder shall render certain services or incur expenditure for the benefit of the community or any section thereof, and the holder fails to render such services or to incur such expenditure to the satisfaction of the Deputy Commissioner, or, if the holder transfers the land in such a manner that, in the opinion of the Deputy Commissioner, the purpose of the grant is likely to be defeated, the Deputy Commissioner may declare such land to be forfeited.

(2) Land forfeited under this section shall vest in the Crown for the purposes of the Province free of all encumbrances and shall be regranted on the original conditions in accordance with rules made under this Law.

(3) If the services or expenditure contemplated by the grant are not required for the benefit of the community or any section thereof, the Deputy Commissioner may declare such land to be liable to pay fair assessment.

REGRANT OF FORFEITED SERVICE INAM

Notfn.
No. 2310-1250-
XII, d. 18-7-29.

A forfeited service inam may be regranted to any person or panch who is willing to perform the service and whom the Deputy Commissioner considers suitable for the purpose.

Village
cesses.

191. Notwithstanding any custom whereunder a cess contribution or due has been levied in any village, no cess, contribution or due shall henceforth be leviable unless it is—

(a) a cess, tax, toll or fee leviable by or under any enactment for the time being in force; or

(b) a payment for consideration received or to be received.

*Provided that it shall be permissible for the Deputy Commissioner to recover the charges to be incurred by a patel in order to keep his village in a good sanitary condition in accordance with rules under this Law.

Exclusive
jurisdiction of
revenue
authorities.

192. (1) Except as otherwise provided in this Law, or in any other enactment for the time being in force, no civil court shall entertain any suit instituted or application made to obtain a decision or order on any matter

*Inserted by Government of India, Foreign and Political Department Notification No. 76-I, dated the 20th February 1934.

which, the Governor in Council or any Revenue Officer is, by this Law, empowered to determine, decide or dispose of; and in particular and without prejudice to the generality of this provision, no civil court shall exercise jurisdiction over any of the following matters:—

- (a) any claim against the Crown relating to lands held under treaty, or to lands granted or held on political tenure; Matters expressly excepted from jurisdiction of civil court
- (b) any claim against the Crown to lands referred to in section 190 or relating to the assessment, forfeiture or re-grant of such lands;
- (c) any question as to the validity or effect of the notification of a revenue-survey or any question as to the term of a settlement.
- (d) the amount of land-revenue assessed under this Law or any enactment for the time being in force;
- (e) any claim against the Crown to hold land free of land-revenue, or at less than the fair assessment, or to be assigned in whole or in part the land-revenue assessed on any land:
Provided that nothing in this section shall bar the jurisdiction of the civil courts in respect of the interpretation of any sanad, grant, contract or recorded order conferring a right to hold land free of land-revenue or at less than the fair assessment;
- (f) any claim against the Crown or against a Revenue Officer for remission or suspension of land-revenue, or for a declaration that crops have failed in any year;
- (g) any claim to modify a decision determining a village site made by a Settlement Officer or Deputy Commissioner;
- (h) any claim to modify a decision regarding the distribution of alluvial land made by the Deputy Commissioner under section 70;
- (i) any claim against the Crown to have any entry made in any land records or to have any such entry omitted or amended;

- (j) any question regarding the demarcation of boundaries or fixing of boundary marks under Chapter XI;
- (k) any claim against the Crown connected with, or arising out of, the collection of land-revenue or the recovery of any sum which is recoverable as land-revenue under this Law or any other enactment;
- (l) any claim against the Crown to set aside or modify any premium, penalty, cess or rate imposed or assessed under the provisions of this Law or any other enactment for the time being in force;
- (m) the distribution of land or the allotment of land revenue on a partition of land made by a Revenue Officer under the provisions of this Law or of the rules thereunder.
- (n) any claim against the Crown relating to any property or emoluments appertaining to the office of any hereditary officer or servant;
- (o) any claim against the Crown to perform the duties of any such officer or servant or in respect of any injury caused by exclusion from such office or service;
- (p) any claim to compel the performance of any duty imposed by this Law on any Revenue Officer or other officer appointed under this Law.

Suits not to be proceeded with unless plaintiff has exhausted right of appeal.

(2) Where, under the provisions of this Law, a suit may be instituted against the Crown to set aside or modify a decision made by a Revenue Officer on any matter which a Revenue Officer is empowered by this Law to determine, decide or dispose of, such suit shall not be proceeded with until the plaintiff proves that, prior to the institution of the suit he has presented and obtained decisions upon all appeals allowed under this Law in respect of such decision:

Provided that where the period of limitation of such suit runs from the date of the order which is sought to be set aside or modified, such date shall be deemed to be the date of the last appellate order in the series of appeals originating from such order.

193. (1) All rules for which provision is made in this Law shall be made by the Governor in Council and shall be consistent with this Law. Rules made under this Law.

(2) A rule may be general for the whole of Berar, or for all areas in Berar not expressly exempted from its operation, or may be special for any local area, as the Governor in Council may direct.

(3) In making any rule, the Governor in Council may direct that a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) Except as regards rules made under section 120, the power to make rules under this Law shall be subject to the condition of the rules being made after previous publication.

(5) No rule made under this Law shall take effect until it has been published in the Gazette.

194. (1) In addition to any power specially conferred by this Law, the Governor in Council may make rules generally for the purpose of carrying into effect the provisions of this Law. General rule making power.

(2) In particular, and without prejudice to the generality of the foregoing power, the Governor in Council may make rules—

- (a) regulating the procedure of Revenue Officers in issuing and enforcing processes under this Law, prescribing the form of processes, prescribing the agency by which such processes may be executed, and prescribing the scale of fees to be charged for issuing or executing such processes and the mode of their collection and prescribing the expenses of sales;
- (b) regulating the payment of expenses to witnesses and the recovery of such expenses from the parties;
- (c) for the licensing of petition-writers and the regulation of their conduct;
- (d) prescribing the persons who may be the recognized agents of parties in proceedings under this Law and regulating their procedure;

- (j) any question regarding the demarcation of boundaries or fixing of boundary marks under Chapter XI;
- (k) any claim against the Crown connected with, or arising out of, the collection of land-revenue or the recovery of any sum which is recoverable as land-revenue under this Law or any other enactment;
- (l) any claim against the Crown to set aside or modify any premium, penalty, cess or rate imposed or assessed under the provisions of this Law or any other enactment for the time being in force;
- (m) the distribution of land or the allotment of land revenue on a partition of land made by a Revenue Officer under the provisions of this Law or of the rules thereunder.
- (n) any claim against the Crown relating to any property or emoluments appertaining to the office of any hereditary officer or servant;
- (o) any claim against the Crown to perform the duties of any such officer or servant or in respect of any injury caused by exclusion from such office or service;
- (p) any claim to compel the performance of any duty imposed by this Law on any Revenue Officer or other officer appointed under this Law.

Suits not to be proceeded with unless plaintiff has exhausted right of appeal.

(2) Where, under the provisions of this Law, a suit may be instituted against the Crown to set aside or modify a decision made by a Revenue Officer on any matter which a Revenue Officer is empowered by this Law to determine, decide or dispose of, such suit shall not be proceeded with until the plaintiff proves that, prior to the institution of the suit he has presented and obtained decisions upon all appeals allowed under this Law in respect of such decision:

Provided that where the period of limitation of such suit runs from the date of the order which is sought to be set aside or modified, such date shall be deemed to be the date of the last appellate order in the series of appeals originating from such order.

193. (1) All rules for which provision is made in this Law shall be made by the Governor in Council and shall be consistent with this Law. Rules made under this Law.

(2) A rule may be general for the whole of Berar, or for all areas in Berar not expressly exempted from its operation, or may be special for any local area, as the Governor in Council may direct.

(3) In making any rule, the Governor in Council may direct that a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) Except as regards rules made under section 120, the power to make rules under this Law shall be subject to the condition of the rules being made after previous publication.

(5) No rule made under this Law shall take effect until it has been published in the Gazette.

194. (1) In addition to any power specially conferred by this Law, the Governor in Council may make rules generally for the purpose of carrying into effect the provisions of this Law. General rule making power.

(2) In particular, and without prejudice to the generality of the foregoing power, the Governor in Council may make rules—

- (a) regulating the procedure of Revenue Officers in issuing and enforcing processes under this Law, prescribing the form of processes, prescribing the agency by which such processes may be executed, and prescribing the scale of fees to be charged for issuing or executing such processes and the mode of their collection and prescribing the expenses of sales;
- (b) regulating the payment of expenses to witnesses and the recovery of such expenses from the parties;
- (c) for the licensing of petition-writers and the regulation of their conduct;
- (d) prescribing the persons who may be the recognized agents of parties in proceedings under this Law and regulating their procedure;

- (e) regulating the sanitation of villages, the burial of the carcasses of animals, the protection and fencing of wells, the up-keep of village roads, and like matters of village self-government :
- (f) imposing duties on patels in respect of matters specified in clause (e) empowering them to give orders in relation to such matters *regulating the liability of persons residing or holding land in any village for charges necessarily incurred by patels in the performance of the duties so imposed and the apportionment of such charges among such persons and regulating the appointment, constitution and functions of a committee of the residents of the village to assist the patel in the discharge of such duties ;
- (g) regulating the appointment, remuneration, punishment, dismissal and duties of jaglias and village mahars ;
- (h) for carrying out the partition of land ; and
- (j) generally for the guidance of Revenue Officers and all other persons in proceedings under this Law.

†(3) No rules made under clause (e) or clause (f) of sub-section (2) shall apply to a village included within the area of a municipality, or of a notified area constituted under the Central Provinces Municipalities Act, 1922, or within the circle of a panchayat established under section 5 of the Central Provinces Village Panchayat Act, 1920, or within an area which has been notified under sub-section (2) of section 2 of the Central Provinces Village Sanitation and Public Management Act, 1920 :

Provided that if a panchayat established under section 5 of the Central Provinces Village Panchayat Act, 1920, does not make sanitary arrangements for any village of the circle for which it is established or the arrangements made by it are not, in the opinion of the Governor in Council, satisfactory, the Governor in Council may, by notification, direct that the rules made under the said clauses of sub-section (2) shall apply to such village.

* Inserted by Government of India Foreign and Political Department No. 76-I, dated the 20th February 1934.

† Inserted by Government of India, Foreign and Political Department Notification No. 48-I-B, dated the 26th January 1937.

RULES REGARDING ISSUE OF PROCESSES

[Section 194 (2) (a)]

1. The following forms are prescribed for processes under the Code :—			Notfn.
Summons for appearance	...	Form A	No. 3104-XII, d. 1-10-29, as amended by
Warrant of arrest for appearance	...	Form B	Notfn.
Notice of demand	...	Form C	No. 3812-2034-XII, d. 6-12-30
Warrant of arrest of revenue defaulter	...	Form D	Notfn.
Warrant to confine revenue defaulter in the civil jail	...	Form E	No. 2840-XII, d. 30-8-32, No. 2630-1740-XII, d. 12-8-32, and
Warrant of attachment of moveable property	...	Form F	Notfn.
Prohibitory order in cases of attachment of any immoveable property	...	Form G	No. 1377-783-XII, d. 26-4-33.
Proclamation of sale of moveable property	...	Form H	Notfn.
Proclamation of sale of holding	...	Form I	No. 4847, Notfn.
Sale certificate for land	...	Form J	No. 1069-XII, d. 13-12-33.
Proclamation declaring the attachment and management of alienated holdings	...	Form K	
Proclamation of sale of immoveable property	...	Form L	No. 3594-1722-XII, d. 31-10-34.
Sale certificate of immoveable property	...	Form M	
Prohibitory order and notice in cases of attachment of crops for recovery of land revenue	...	Form N	Notfn.
Warrant of service of the prohibitory order and notice	...	Form O	No. 3606-1875-XII, d. 9-9-35.

2. The fees shown in the following table shall be charged for serving and executing the several processes under the Code :—

(1) For every notice of demand if sent—

	Rs.	a.	p.
(a) by post	...	0	12 0
(b) otherwise	...	1	0 0

(2) For a summons for appearance in respect of each person ... 1 0 0

(3) For a warrant of arrest in respect of each person ... 4 0 0

(4) For warrant of attachment of moveable property—

(a) For arrears below Rs. 200 ... 1 8 0

(b) For arrears between Rs. 201 and Rs. 500 ... 2 0 0

Notfn.
No. 4847-1069-XII, d. 13-12-33, Notfn.
No. 3594-1722-XII, d. 31-10-34 and Notfn.
No. 3306-1878 XII, d. 9-9-35.

	Rs. a. p.
(c) For arrears between Rs. 501 and Rs. 1,000 ...	2 8 0
(d) For arrears above Rs. 1,000 ...	3 0 0
(5) For a prohibitory order in cases of attachment of immoveable property...	3 0 0
(6) For a proclamation of sale of moveable or immoveable property or of attachment of alienated holding ...	2 0 0
(7) For a warrant for the delivery of immoveable property ...	3 0 0
(8) For any process not specified above ...	1 0 0
(9) For a prohibitory order and notice in cases of attachments of crops for recovery of land revenue ...	3 0 0

3. Notwithstanding anything in rule 2 no fee shall be charged for executing—

- (a) any process which may be issued by any Revenue Officer of his own motion; except those issued for the recovery of land revenue or of any other sums recoverable as arrears of land revenue under section 164;
- (b) any process issued a second time in consequence of any mistake for which the officer is responsible or in consequence of an adjournment made otherwise than at the instance of a party;
- (c) any copy of any process fixed at the office of a Revenue Officer or at any other place under his orders;
- (d) any process which may be issued by any Revenue Officer for the recovery of taxes and fines on behalf of a village panchayat.

4. The process fee shall be paid in court-fee stamps, which shall be affixed either to the application by which the Revenue Officer is moved to issue the process, or, if no such application be filed, to the order by which the Revenue Officer directs the issue or service of the process. If such an application be filed, it must, in addition to the requisite stamps for the process fee, bear such stamps, if any, as are needed for its own validity:

Provided that process fees may not be recovered in advance from a liquidator in cases where dues are to be recovered as arrears of land revenue under a certificate issued by the Registrar, Co-operative Societies, under the proviso to section 164 (d) of the Berar Land Revenue Code, 1928. When processes are issued jointly or severally against members of a society, the whole amount of process fees shall be recovered from the gross sum collected. Should no recovery be effected the process fees shall be recovered from the liquidator:

Provided further that process fees for processes issued by a liquidator invested with the powers of a Revenue Officer in cases referred to in the preceding proviso and served by peons employed by the liquidator at the cost of a co-operative society shall be recovered in cash and credited by the liquidator to the society concerned.

4-A. The mode of issuing a proclamation prescribed in section 24 shall apply to the issue of the prohibitory order.

5. Processes shall be served by peons attached to tahsils or by the patel or may in the case of notice be sent by post. The peon or the patel shall enter the date and particulars of the mode of service on the copy of the process retained by him and this copy shall be returned to the officer who issued it.

6. Tahsil peons are prohibited from receiving any money on account of Government revenue or process fee.

7. When a Revenue Officer sends a process for service or execution to any court in British India, or in the territories of a Native State with which an engagement for reciprocal service has been effected, the fees shall be levied in stamps in accordance with the rate prescribed in rule 1, and the Revenue Officer shall certify on the process that the proper fee has been levied.

8. A process issued by any court in British India, or in territories of a Native State with which an engagement for reciprocal service has been effected, shall be served and executed free of charge by any Revenue Officer to whom it may be sent, if it is certified on the process that the proper fee has been levied. When no such certificate has been given or the amount of process fee has been specifically mentioned in the revenue recovery certificate, the officer effecting recovery of the arrears will realize the fees due on the processes actually issued minus the amount shown in the revenue recovery certificate to have been recovered in advance.

9. Subsistence money to be paid by Government to a defaulter under detention or imprisonment shall be allowed at the rate for the time being in force for civil debtors.

FORM A

[Referred to in rule 1 under section 194 (2) (a)]

Summons to attend before a Revenue Officer.

In the Court of.....
 To.....
 of village....., pargana.....
 taluq.....

Whereas your attendance is necessary in my Court on the
 day of..... 19 for the purpose
 of.....
 you are hereby required to appear before me on that date at
 and to bring with you

Herein fail not.

*A sum of Rs. being your travelling expenses and
 diet money is sent herewith.

(Sd.)

*Revenue Officer,
 Designation.*

Dated.....19 .

(Seal)

*To be scored out when no diet money is sent.

FORM B

[Referred to in rule 1 under section 194 (2) (a)]

Warrant of arrest for appearance before a Revenue Officer.

In the Court of.....

To

Whereas of village.....
 has not obeyed the summons issued by this Court for his appear-
 ance, which summons was duly served on him, you are hereby
 ordered to arrest the said and to
 produce him before this Court.

(Sd.)

*Revenue Officer,
 Designation.*

Dated.....19 .

(Seal)

If the said shall give bail
 himself in the sum of Rs. with one surety in the sum
 of Rs. to attend before this Court on the
 day of 19 , and to continue so to attend until
 otherwise directed by this Court, he may be released.

(Sd.)

*Revenue Officer,
 Designation.*

Dated.....19 .

FORM E

[Referred to in rule 1 under section 194 (2) (a)]

Warrant to confine revenue defaulter in the Civil Jail.

[Section 147, Berar Land Revenue Code]

From

The _____

To

The Officer in charge of the Civil Jail

at _____

Whereas _____, son of _____ resident of village _____, taluq _____, has, been arrested for default in payment of the sum of Rs. _____, being arrears of land revenue due by him together with process fees and penalty;

And whereas the said _____ has been brought before me and has not paid the above sum (or has paid Rs. _____ and the sum of Rs. _____ is still due); you are hereby required to receive the said _____ into the Civil Jail of this district and to confine him there for a period of _____ unless the above sum be paid to you within that period or the imprisonment be stayed by order from this Court.

The allowance for subsistence of the defaulter during his imprisonment has been fixed at the rate of Rs. _____ a month.

(Sd.)

Sub-Divisional Officer.

Dated _____ 19 .

(Seal)

FORM E

[Referred to in rule 1 under section 194 (2) (a)]

Warrant of attachment of moveable property.

[Section 141 (b), Berar Land Revenue Code]

To (Name and office of the person charged with the execution of the warrant) _____

Whereas _____, son of _____, resident of village _____, taluq _____, has made default in payment of Rs. _____ on account of land revenue as per details given in the subjoined statement, you are hereby ordered to attach the moveable property of the said _____ and unless the total amount due is paid to the patel, to hold the same until further orders from this Court.

You are further ordered to return this warrant on or before the _____ day of _____ 19____, with an endorsement certifying the date and manner in which it has been executed or why it has not been executed :—

Village	Survey number and sub-division number	Amount of arrears	Process fee	Penalty	Total Amount due
(1)	(2)	(3)	(4)	(5)	(6)

(Sd.)

Tahsildar.

Dated _____ 19 .

(Seal)

FORM G

[Referred to in rule 1 under section 194 (2) (a)]

Attachment of immovable property.

[Prohibitory Order under sections 141 (c), 141 (d) and 141 (f) of the Berar Land Revenue Code, 1928]

Whereas _____, son of _____, caste _____, resident of _____ has made default in payment of Rs. _____ on account of _____ due by him as per margin.

It is ordered that he the said _____ be and is hereby prohibited and restrained, until further order of this office, from transferring or charging the property specified in the following schedule by sale, gift or otherwise and all persons be and are hereby in like manner prohibited from receiving the same by purchase, gift or otherwise.

Issued under my hand and seal of this office this _____ day of _____ 19 :—

(Sd.)

Deputy Commissioner,
Sub-Divisional Officer,
Tahsildar.

FORM H

[Referred to in rule 1 under section 194 (2) (a)]

Proclamation of sale of moveable property.

[Section 145, Berar Land Revenue Code]

Whereas the moveable property specified below has been attached for the recovery of Rs. _____ on account of arrears of land revenue, process-fee and penalty due by _____, son of _____, resident of village _____, taluq _____

Proclamation is hereby made that, unless the amount due be paid to the patel before the day herein fixed for the sale, the said property shall be sold by public auction at _____ on the _____ day of _____ 19 , at or about _____ o'clock :—

Description of moveable property (1)	Number of articles (2)	Property exempt under proviso (1) to section 141 (3)

(Sd.)

Dated _____ 19

Tahsildar

(Seal)

FORM I

[Referred to in rule 1 under section 194 (2) (a)]

Proclamation of sale of holding.

[Section 149, Berar Land Revenue Code]

Whereas the holding specified below has been attached for the recovery of Rs. _____ on account of arrears of land revenue, process-fee and penalty due by _____ son of _____, resident of village _____ taluq _____.

Proclamation is hereby made that unless the amount due be paid to the patel before the date herein fixed for the sale, the said holding shall be sold free of all encumbrances by public auction at _____ on the _____ day of _____ 19____, at or about _____ o'clock :—

Village	Survey number and sub-division number	Area	Assessment
(1)	(2)	(3)	(4)

(Sd.)

Tahsildar.

FORM J

[Referred to in rule 1 under section 194 (2) (a)]

Sale certificate for land.

[Section 161, Berar Land Revenue Code]

In the Court of the _____

Class No. _____ Case No. _____

This is to certify that _____, son of _____, resident of village _____, taluq _____ has been declared the purchaser of the holding specified below at a sale by public auction held on the _____ day of _____ and that the sale has been duly confirmed by the Sub-Divisional Officer on the _____ day of _____ 19____.

Such sale transferred the property free of all encumbrances imposed on it, and all grants and contracts made in respect of it by any person other than the purchaser :—

Village	Survey number and sub-division number	Area	Assessment	Name of recorded occupant or owner	Amount for which purchased
(1)	(2)	(3)	(4)	(5)	(6)

[Notification No. 3511-3061-XII, dated the 16th September 1936.]

(Sd.)

Dated _____ 19 ____

Tahsildar.

(Seal)

FORM K

[Referred to in rule 1 under section 194 (2) (a)]

Proclamation of attachment of alienated holdings for recovery of arrears of land revenue under section 141 (f) and 148 (l) of the Berar Land Revenue Code, 1928.

Whereas the alienated holdings described in the following schedule have been attached under section 141 (f) of the Berar Land Revenue Code, 1928, for the recovery of Rs. . . . on account of land revenue and process-fees due from the defaulters named in the schedule :—

Proclamation is hereby made that, during continuance of the attachment, these defaulters and their co-sharers are under section 148, sub-section (3), of the aforesaid Code, excluded from the possession of the said holdings, and the Deputy Commissioner or the agent appointed by him shall have all the rights to manage the holdings and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as superior holder or co-sharers to any tenants thereof.

Issued under my hand and the seal of this office this . . . , day of _____ 19 (Sd.) :—

(Seal)

Deputy Commissioner.

SCHEDULE

Taluq	Details of holding	Annual Government demand	Name, father's name and caste of each defaulter	Description of the attached holdings

FORM L

[Referred to in rule 1 under section 194 (2) (a)]

Proclamation of sale of immoveable property.

[Section 149, Berar Land Revenue Code]

Whereas the immoveable property described below has been attached for the recovery of Rs. _____ on account of _____, due by _____, son of _____, resident of _____ plus Rs. _____ on account of process-fees.

Proclamation is hereby made that unless the total amount aforesaid be paid before the day herein fixed, for the sale, the said property shall be sold by public auction at _____ on the _____ day of _____ 19____, at or about _____ o'clock.

The sale extends only to the right, title and interest of the said defaulter in the said property :—

(Sd.)

Sub-Divisional Officer.

Dated _____ 19____
(Seal)

Details of property.

Description

Assessment, if any

Note of any
known
encumbrances,
etc.

FORM M

[Referred to in rule 1 under section 194 (2) (a)]

Sale certificate of immoveable property.

[Section 161, Berar Land Revenue Code, 1928]

In the Court of the _____

Class No. _____ Case No. _____

This is to certify that _____ son of _____, resident of village _____, taluq _____, has been declared the purchaser of the immoveable property specified below at a sale by public auction held on the _____ day of _____, and that the sale has been duly confirmed by the Sub-Divisional Officer on the _____ day of _____ 19____.

Such sale transferred the right, title and interest of _____, son of _____, in the said property :—

Details of property.

Description	Place	Assessment, if any.	Name of recorded occupant or owner	Amount for which purchased
(1)	(2)	(3)	(4)	(5)

[Notification No. 3511-3061-XII, dated the 16th September 1936]

(Sd.)

Dated _____ 19____

(Seal)

Tahsildar.

FORM N

Prohibitory order and notice.

[Section 167 (a) and (b) and section 168, Berar Land Revenue Code.]

otfn.
o. 3306-1878-
II, d. 9-9-35.

In the Court of the Tahsildar
Naib-Tahsildar

Class No. _____ Case No. _____ 19

*Name of village	Survey No. and sub-division No.	Land Revenue			payment of land revenue as noted therein, I hereby (1) require, under section 167 (a), Berar Land Reve-
		Arrears	Due on	Cesses	

nue Code, that any crop growing thereon shall not be reaped until a notice in writing has first been given to me or to and such notice has been returned endorsed with an acknowledgment of its receipt;

(2) direct, under section 167 (b) of the said Code, that no part of any crop growing or grown on such land shall, without permission of myself or of the officer mentioned above, be

(a) removed from the land on which it has been reaped, or

(b) removed from any place in which it may have been deposited.

(Sd.)

Tahsildar
Naib-Tahsildar

And I hereby, under sections 167 and 168 of the said Code, give notice to you _____ †() that you shall obey the above order. If you disobey, or abet the disobedience thereof, you render yourself liable under section 168 (4) of the said Code to a fine which may amount to double the land revenue due on the land as specified above.

(Sd.)

Tahsildar
Naib-Tahsildar

Seal.

Date _____

†Here enter "occupant", "superior holder", "lessee", "tenant" or "mortgage in possession."

FORM O

[Section $\frac{167}{168}$, Berar Land Revenue Code.]Notfn. No.
3306-1878-XII,
d. 9-9-35.

Class No. of 19 .

Case No.....

From the $\frac{\text{Tahsildar}}{\text{Naib-Tahsildar}}$

To the patel/patwari, mauza _____ No. _____

The accompanying prohibitory order and notice should be served on the person(s) named therein and $\frac{\text{his}}{\text{their}}$ acknowledgment obtained and sent.

(2) You should sign and return any notice sent to* you as required by this order; and should immediately inform me of having done so.

(3) You must take every precaution to prevent a breach of this order and report immediately if any breach is committed.

(4) You may appoint _____, watchmen to prevent* the unlawful reaping or removal at the rate of _____

(5) You should report to me as soon as the crop, or so much of it as would be sufficient, if sold, to pay the land revenue, has been reaped.

PAYMENT OF EXPENSES TO WITNESSES

[Sections 20 (1) and 194 (2) (b).]

Notfn. No.
2310-1250-XII,
d. 18-7-29.

1. When the attendance of a witness is applied for by a party in any proceeding before a Revenue Officer, the applicant shall be required to deposit diet money and travelling expenses sufficient to reimburse the witness for the reasonable expenses incidental on his attendance in Court.

2. (1) For diet money the rates shall not exceed the following maxima or such lower maxima as may be prescribed by the Deputy Commissioner :—

	per diem
	Rs. a. p.
<i>Class A.</i> —Indians of the labouring class	0 8 0
<i>Class B.</i> —Artisans, cultivators, shop keepers and others of the middle class.	1 0 0
<i>Class C.</i> —Europeans, Anglo-Indians and Indians of superior rank.	5 0 0

(2) In special cases, if the rates above prescribed appear to be insufficient, the Revenue Officer may, for reasons to be recorded in the order sheet, require such sums as appear reasonable to be paid.

(3) Diet money shall be given not only for the period of actual attendance, but also for any reasonable time spent in the journey to and from the place of sitting, the mode of conveyance available being taken into consideration.

3. For travelling expenses the rates shall be—

(i) When the journey is by road, the actual expenses incurred up to a maximum of six annas per mile, provided that travelling expenses shall not be paid to A class witnesses unless owing to age or physical condition or any other reasonable cause they are unable to travel on foot.

(ii) When the journey is wholly or partly by rail—

Class A.—3rd class railway fare.

Class B.—2nd or intermediate class railway fare according to the discretion of the Revenue Officer.

Class C.—1st or 2nd class railway fare *plus* 3rd class railway fare for one servant according to the discretion of the Revenue Officer.

4. When the Revenue Officer causes the attendance of a witness of his own accord and not at the instance of any party, he may allow the payment of expenses to the witness by Government at the rates prescribed in the foregoing rules, provided that diet money and travelling expenses shall not be paid to a village officer summoned in any matter connected with his official duty.

5. Servants of the Crown when summoned to give evidence in their public capacity shall, save in the undermentioned cases, receive nothing from the Revenue Officer, but are entitled to travelling allowance under the Fundamental Rules. The Revenue Officer, on finally discharging such witnesses, shall sign a

certificate in such form as the Accountant-General may from time to time prescribe, stating the period for which they have been detained to give evidence—

(a) To a servant of the Crown attending before a Revenue Officer not more than five miles from his headquarters, payment may be made direct by the Revenue Officer of reasonable travelling expenses actually incurred in connection with his attendance whenever this appears to be necessary.

(b) Servants of the Crown whose salary does not exceed Rs. 15 per mensem may receive from the Revenue Officer a suitable daily allowance under rule 2 and reasonable travelling expenses actually incurred in connection with their attendance.

6. Servants of the Crown when summoned to give evidence in their private capacity may receive from the Revenue Officer any daily allowance and travelling expenses admissible under rules 2, 3 and 4, but they will not be entitled to any travelling allowance under the Fundamental Rules.

PETITION-WRITERS

[Section 194 (2) (c)]

1. In these rules—

(i) "Petition" means a document written for the purpose of being presented to a Revenue Officer and includes a petition of appeal or review.

(ii) "Petition-writer" means a person licensed under these rules to write petitions.

(iii) "To practise as a petition-writer" means to write petitions for hire, and extends to the writing of a single petition for hire.

(iv) A petition-writer is said to practise before a Revenue Officer when he writes petitions for the purpose of being presented to that officer.

2. No person shall practise as a petition-writer before a Revenue Officer unless he has been duly licensed under these rules provided that—

(1) these rules shall not apply to any advocate or pleader in respect of a petition written for presentation to a Revenue Officer before whom he is entitled to appear, whether such petition be written by himself or on his behalf; provided that in the latter case it be signed by the petitioner;

(2) no petition shall be rejected merely on the ground that it has been written by a person who is not a licensed petition-writer.

3. No person shall be licensed as a petition-writer whilst he is in the service of Crown, of an Indian State or of a legal practitioner.

Notfn. No.
2310-1250-
XII, d. 18-7-29

4. Any person above the age of twenty years may present a stamped application to the Deputy Commissioner of the district in which he resides, or desires to practise to be licensed as petition-writer.

5. (1) The application shall be written by the applicant in his own hand and presented by him in person, and shall state—

- (a) the applicant's name, father's name, date of birth, caste, residence and present occupation (if any);
- (b) the language or languages with which the applicant is acquainted;
- (c) the names of two persons of respectability to whom reference may be made as to the applicant's character.

(2) If the applicant has been convicted of a criminal offence or removed from service of the Crown, this should be stated in the application. If the applicant is in the service of the Crown, of an Indian State or of a legal practitioner, his application shall state that he is prepared to resign such service on being licensed as a petition-writer.

6. The Deputy Commissioner to whom the application is made may, in his discretion, on being satisfied that the applicant—

- (a) is over twenty years age,
- (b) is of good character, and
- (c) is otherwise eligible,

grant the applicant a licence in Form A.

7. (1) Every appointment will be probationary in the first instance and no probationer will be confirmed unless and until he satisfies the Deputy Commissioner that he—

- (i) is able to draw up in a legible hand a clear and concise petition in the official language of the place where he practises; and

- (ii) is acquainted with the provisions of the Berar Land Revenue Code, Patels and Patwaris Law, Berar Alienated Village Tenancy Law, the Land Acquisition Act, the Agriculturists' Loans Act and the Land Improvement Loans Act, so far as a knowledge of these Acts is necessary for the efficient performance of the duties of a petition-writer.

(2) Any probationer who fails to give such satisfaction within one year from the date of his appointment may be removed by the Deputy Commissioner.

8. A register of licensed petition-writers in Form B will be maintained in the office of every Deputy Commissioner. A page or pages of the register will be set apart for each petition-writer.

9. Every licensed petition-writer shall keep up a register in Form C and shall enter therein every petition written by him, and shall produce the register for the inspection of any Revenue Officer, when required to do so.

10. Every licensed petition-writer shall, at his own expense, provide himself with an official seal of the following pattern :—

11. Every licensed petition-writer, in writing petitions shall confine himself to expressing in plain and simple language, such as the petitioner can understand, and in a concise and proper form, the statements and objects of the petitioner, and shall not introduce any argument or quotation from a law report or other law book, or refer to any decision not brought to his notice by the petitioner.

12. Every licensed petition-writer shall affix his seal (with his name and licence number filled in) on every petition written by him, and shall enter on such petition the number which it bears in his register and the fee which has been charged for writing it.

13. (1) Subject to the provisions of rule 16, every licensed petition-writer may make his own terms with his employer as to the remuneration to be paid for his services :

Provided that he enters correctly the actual amount agreed upon on the petition and in the proper column of his register.

(2) A licensed petition-writer shall not take payment for his services by an interest in the result of any case in connection with which he is employed and shall not find, or contribute towards, the funds employed in carrying on any case in which he is not otherwise personally interested.

14. A licensed petition-writer shall not accept any Mukhtarnama, whether general or special, for the conduct of any case before a Revenue Officer other than a case in which he is himself a party.

15. Every licensed petition-writer—

- (1) who resigns or is removed from his appointment;
 - (2) who enters the service of the Crown, of an Indian State or of a legal practitioner; or
 - (3) who is suspended or dismissed under these rules,
- shall forthwith surrender his licence to the Deputy Commissioner

16. Any Revenue Officer who, upon the representation of any person employing a petition-writer, and after hearing such petition-writer (if he desires to be so heard) finds that the fee charged for writing a petition presented to him was excessive may, by order in writing, reduce the same to such sum as appears to be, under the circumstances, reasonable and proper, and may require the petition-writer to refund the amount received in excess of such sum.

17. Any Revenue Officer may order a licensed petition-writer to rewrite without extra remuneration any petition written by him which contravenes rule 11, or is illegible, obscure or prolix, or contains any irrelevant matter or misquotations or is, from any other cause, in the opinion of such officer informal or otherwise objectionable.

18. Any person who contravenes rule 2 or any licensed petition-writer who contravenes any of the rules 9, 10, 12, 13, 14 and 15 shall be liable, by order of the Deputy Commissioner, to a penalty not exceeding fifty rupees.

19. Any licensed petition-writer who—

- (1) does not carry out, within a reasonable time, the order of the Revenue Officer made under rule 16 or 17;
- (2) habitually writes petitions contrary to rule 11 or containing irrelevant matter or which are unnecessary or informal or otherwise objectionable; or
- (3) in the course of his business as a petition-writer; uses disrespectful, insulting or abusive language; or
- (4) is found to be incapable of efficiently discharging the functions of a petition-writer; or
- (5) by reason of any fraudulent or improper conduct in the discharge of his duty as a petition-writer is found to be unfit to practise as such; or
- (6) is convicted of a criminal offence;

may be suspended or dismissed by order of the Deputy Commissioner.

20. No order under rules 18 and 19 shall be passed by the Deputy Commissioner until the person or petition-writer in fault has been given an opportunity of defending himself.

FORM A

Form of licence.

Certified that _____, son of _____ resident of _____, has, this day, been licensed as a revenue petition-writer in the _____ district and is hereby permitted to practise as such in the manner prescribed by the rules relating to such petition-writers in Berar and subject to the provisions of the said rules.

Given under my hand and the seal of this office this
day of _____ 19____ at _____.

(Seal)

Deputy Commissioner.

RECOGNIZED AGENTS

[Section 194 (2) (a)]

Notfn. No.
2310-1250-
XII, d.
18-7-29.

1. "Recognized agent" means a person authorized in writing by any party to a proceeding under the Code to make appearances and applications and to do other acts on his behalf in such proceeding and shall be a permanent servant, partner, relative or friend of the party who from his knowledge of the matter in dispute or his general acquaintance with the affairs of the party, is a fit person to represent him.

2. In deciding whether any person is a fit recognized agent, a Revenue Officer shall have regard to section 10 of the Legal Practitioners Act, and shall so exercise his discretion as to prevent any single person from taking powers of attorney from numerous principals.

SANITATION RULES FOR VILLAGES WHERE THE
CENTRAL PROVINCES MUNICIPALITIES ACT, VIL-
LAGE SANITATION AND PUBLIC MANAGEMET
ACT OR VILLAGE PANCHAYAT ACT ARE NOT IN
FORCE

[Section 194 (2) (e) and (f)]

Notfn. No.
2310-1250-XII,
d. 18-7-29,
Notfn. No.
1624-894-XII,
d. 19-5-33
and Notfn.
No. 2896-
420-XII, d.
3-9-34.

1. No person shall throw rubbish or allow water to flow over the streets or lanes or open places in the village.

2. Household refuse and stable litter shall, unless it is taken out to the fields, be thrown daily by the owners into manure pits or into other receptacles provided by them for the purpose.

3. No person shall do any act, such as the washing of clothes, steeping stalks of ambadi, san, hemp, etc., which is likely to defile the water of a well, tank or stream used for drinking purposes. In the case of a stream the washing of clothes and other acts may be done below the point at which water is taken for drinking purposes.

4. No corpse shall be buried in or near any well or the bed of any tank or stream or in the village site.

5. All people shall be bound to go for purposes of nature beyond the limits which shall be marked out by the patel on each side of the village. These limits shall be at least 100 yards from the outermost houses of the village. This rule shall not be enforced in the case of infants or sick or infirm persons.

6. No animals shall be skinned or carcasses buried except at a place or places which shall be fixed by the patel.

7. Once a year, in October, after the rains have ended, the patel shall have the village cleared of all weeds and jungle, which, together with any rubbish that may not have been removed to the manure pits, shall be collected outside the village and burnt.

8. Wells used for drinking purposes shall be provided with a parapet at least two feet high and shall be cleaned out periodically when necessary.

9. If any person is required by the patel in accordance with the rules 1 to 8 to perform, or refrain from performing, any act and fails to comply with that order, the patel shall report to the Deputy Commissioner and ask for authority to incur such expenditure as may be required to remedy such failure. And thereupon the Deputy Commissioner shall cause a local inquiry to be made by a Revenue Officer not below the rank of a Naib-Tahsildar, and may, by order in writing, authorize the patel to incur an expenditure, the amount of which shall be stated in the order and to recover the same from the person so failing.

10. If the patel finds either (1) that an establishment, temporary or permanent, or (2) that an expenditure on petty repairs to roads, wells or water-courses, or both these measures, are necessary to keep his village in good sanitary condition, he shall make a report to the Deputy Commissioner, who, after a local inquiry made by himself or by an Assistant Commissioner may by order in writing—

(a) authorize the patel to entertain such establishment and to incur an expenditure not exceeding Rs. 500 in any year for petty repairs to roads, wells or water-courses, the nature and the cost of establishment and the period for which it shall be entertained being stated in the said order; and

(b) direct that the cost of the said establishment or of the said expenditure on petty repairs, or of both, shall be levied from the cultivators residing in the village by a rate on the rent or land revenue of the land held by them and from non-cultivators by a house tax. The amount of the said rate or tax shall be fixed so as to cover, as nearly as possible, after allowing for short collections, the cost of the establishment and expenditure, and no more, with due regard to the means of persons so rated or taxed.

11. If any patel finds that it is necessary to construct, repair or improve any well, tank or reservoir, for the supply of pure drinking water, he shall report to the Deputy Commissioner the necessity for the work and its cost, and the Deputy Commissioner, after a local inquiry made by a Revenue Officer not below the rank of a Tahsildar regarding the necessity and the cost of the same, may, by an order in writing—

(a) authorize the carrying out of the work so far as he may think necessary and possible with due regard to the means of the villagers, at cost to be determined by him and stated in the order; and

(b) direct that the cost be recovered from the residents of the village in the same manner as provided in rule 10 (b):

Provided that the Deputy Commissioner in writing exempt from payment in his opinion, will not derive

order
ho,
rk.

Notfn. No.
1140-3270-XII,
d. 9-4-34.

17. Village mahars shall be appointed by the revenue patel in accordance with the custom of the village after recording the opinion of the mahars, provided that where no established custom exists, the nearest eligible relative of the late mahar shall be appointed.

All appointments of village mahars shall be immediately reported by the revenue patel to the Tahsildar.

18. If there is a dispute as to the right to office, the revenue patel shall make a temporary appointment and the parties shall be referred to a civil court. If the person decided by the civil court to have the right to office is in the opinion of the patel of bad character or unfit to perform the duties of the office, he shall demand that a competent substitute be furnished. Any person dissatisfied with the patel's order may apply to the Tahsildar for redress.

19. The scale of remuneration of mahars shall be determined from time to time by the Local Government.

20. The remuneration of mahars shall be disbursed quarterly in April, July, October and January at the tahsili.

21. Patels may grant leave of absence to a mahar up to one week and will be responsible that the duties of the mahar are not neglected.

For longer periods the sanction of the Tahsildar shall be obtained and a mahar granted such leave will be required to provide a substitute.

22. A village mahar may be suspended or dismissed by the Tahsildar on any of the following grounds:—

- (1) that he is of bad character;
- (2) for wilful breach of rules;
- (3) for serious misconduct.

The vacancy so caused shall be filled, under the orders of the Tahsildar, by a person who is not a member of the family of the suspended or dismissed mahar.

23. A village mahar may be removed from service by the Tahsildar when, owing to age or to mental or bodily infirmity, he is no longer fit to perform the duties of the post.

24. It shall be the duty of the village mahar—

- (1) to reside in his village, or, if he be in charge of more than one village, in such village as is appointed for his residence by the Tahsildar, and not to absent himself without the patel's permission;
- (2) to keep watch and ward over the houses and property of the villagers: and, in villages with a population of more than 300, to patrol the village at night;
- (3) to arrest and convey to the police station any person who in his view commits a non-bailable and cognizable offence, or who has been proclaimed as an offender;
- (4) to assist in the private defence of person or property in accordance with section 97 of the Indian Penal Code;

- (5) to report immediately to the police patel of the village (or in his absence to the officer in charge of the police station) all matters, such as the presence of suspicious strangers, the occurrence of any unnatural death, etc., which the patel is bound to report to the police;
- (6) to patrol important routes within the village boundary on bazar days and on occasions of fairs;
- (7) to carry reports to the police station;
- (8) to report to the patel vital statistics and the outbreak of epidemic disease or cattle disease;
- (9) to carry corpses under the order of the police for *post mortem* examination and to bury unclaimed corpses when ordered;
- (10) to assist village officers in the collection of land revenue;
- (11) to escort money to the tahsili;
- (12) to assist any Government officer in survey operations, measurement work, and crop and boundary mark inspection;
- (13) to carry reports to the tahsili, to carry message, village and revenue officers and to serve record of rights notices;
- (14) to repair and maintain boundary marks of village sites and of lands set apart for public purposes;
- (15) in villages where no conservancy staff is employed to clean the public buildings;
- (16) to assist the patel in enforcing the rules for village sanitation;
- (17) to remove the bodies of unclaimed dead animals and bury them when ordered;
- (18) to carry out petty repairs to fairweather roads within the village boundary;
- (19) to carry Government property;
- (20) to assist the patel in the supply, on proper payments, of necessary provisions and transport to public officers and travellers and to put up tents;
- (21) to carry out the patel's orders in all official matters;
- (22) upon payment of the fee fixed according to the rules made under the Central Provinces Village Panchayat Act, 1920, as applied to Berar, to serve summonses and notices issued by a panchayat or a village court or bench constituted under that Act;
- (23) if so ordered to do by the Deputy Commissioner and upon payment of the fee fixed by that officer to serve notices and summonses issued by the school attendance authorities constituted under section 7 of the Central Provinces Primary Education Act, III of 1920, as applied to Berar.

Notfn. No.
1317-920-XII
d. 4-5-31.

Proviso 1.—Duties Nos. (7) and (8) shall be performed personally by one or in large villages by two mahars set aside for the purpose by the patel for a period of not less than three months

at a time and the names of such mahars shall be communicated by the patel to the Tahsildar and police station.

Proviso 2.—In towns where the Municipal Law applies, watch and ward, reporting of crime and vital statistics are not duties enjoined on the mahars.

Proviso 3.—Mahars shall not be employed for carrying message when these can be conveniently sent through the post.

PARTITION OF LANDS IN ALIENATED VILLAGES LEASED UNDER THE WASTE LAND RULES OF 1865

[Section 194 (2) (h)]

1. Partition of the lands of an alienated (izara) village shall be carried out by a Revenue Officer on precept from a civil court only, which shall specify the rights of the parties concerned and the nature of the partition to be effected.

2. The officer carrying out the partition shall not be of lower class than an Assistant Commissioner of the first grade.

3. With the precept the civil court shall forward a map showing the lands to be partitioned and certified copies of the latest entries in the record of rights and crop statement relating to these lands.

4. The Revenue Officer shall proceed to the village in which the lands are situated and after inspecting the lands and hearing the parties interested, shall, with the assistance of the land records staff, draw up instructions for the guidance of the revenue inspector or other person, entrusted by him with the preparation of the detailed scheme for partition :

Provided that if the lands to be partitioned are small in area and the partition is of simple character the Revenue Officer, for reasons to be recorded by him in writing, need not visit the village.

5. These instructions shall be so drawn up as to secure so far as is possible, that the lands allotted to each party shall be compact and that there shall be an equitable division by area, fair assessment and rent of the lands held by ante-alienation tenants, permanent tenants, and ordinary tenants and of the home-farm and waste and unoccupied lands.

6. On receipt of the detailed scheme from the revenue inspector or other person, the Revenue Officer shall explain it to the parties and record their statements in respect of it. After considering their objections, if any, and modifying the scheme, if necessary, he shall record an order of confirmation. Thereafter, he shall intimate the result of the proceedings and the details of the scheme confirmed to the civil court.

7. At the time of passing the order of confirmation, the Revenue Officer shall draw up a statement of the costs incurred in effecting the partition, including his travelling and daily allowance for his visit to the village and the remuneration of the person preparing the scheme and shall apportion these costs amongst the parties, from whom they shall be recoverable as provided by section 164 of the Berar Land Revenue Code.

PARTITION OF LANDS IN UNALIENATED VILLAGES

[Section 194 (2) (h)]

1. Revenue Officer shall carry out the partition of land in unalienated villages on receipt of a precept from a civil court. Notfn. No. 161-XVII, d. 23-10-34.

2. Such precept shall specify the names and respective rights of the parties concerned, and the nature of the partition to be made, and shall be accompanied by certified copies of the latest entries in the record of rights, and of the *tipan* and *prati* books relating to such land: Provided that in respect of any land brought under nazul settlement a plan drawn to scale shall be supplied in place of copies of the *tipan* and *prati* books.

3. The officer carrying out the partition shall not be of lower class than an Assistant Commissioner of the first grade.

4. The officer shall first proceed to inspect the land to be partitioned, and shall then, after hearing the parties concerned, draw up, with the assistance of the land records staff, if required, instructions for the guidance of the revenue inspector or other person whom he entrusts with the preparation of the detailed scheme of partition: Provided that if the land is small in area and simple to partition, the officer, after recording his reasons in writing, need not inspect the land.

5. The instructions drawn up in accordance with rule 4 shall provide that the land allotted to each party shall, so far as is possible, be compact, and that there shall be an equitable division in respect of area, quality and assessment.

6. Subject to the provisions of rule 5, survey numbers or existing sub-divisions shall, so far as is possible, be allotted whole. Sub-divisions, if formed, shall not be less in area or assessment than the limits prescribed in rule 1 of the rules under sub-section (2) of section 88 of the Code.

7. On receipt of the detailed scheme from the revenue inspector or other person who has prepared it, the officer shall explain it to the parties and record their statements in regard to it. After considering these statements and modifying the scheme, if necessary, he shall record an order confirming it. A copy of this order and of the scheme shall then be forwarded by him to the civil court.

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THE BERAR ALIENATED VILLAGES TENANCY LAW, 1921

*Government of India, Foreign and Political Department,
Notification No. 2996-I.-B., dated Delhi, the 14th
November 1921, as amended by Notification
No. 1046-Int., dated Simla, the 10th May 1922.*

No. 2996-I.-B., Delhi, the 14th November 1921.—In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to issue the following provisions regulating the relations of landlords and tenants of agricultural land in certain alienated villages of Berar :—

A Law to amend the law relating to landlords and tenants of agricultural land in certain alienated villages of Berar.

WHEREAS it is expedient to amend the law relating to landlords and tenants of agricultural land in certain alienated villages of Berar ;

It is hereby provided as follows :—

CHAPTER I.—PRELIMINARY

1. (1) These provisions may be called the Berar Alienated Village Tenancy Law and are hereinafter referred to as “this Law”.

(2) This Law extends to all alienated villages leased under the Waste Lands Rules of 1865 in which proprietary right has been conferred by the Crown.

(3) It shall come into force on such day as the Local Government may, by notification in the local official Gazette, direct.

NOTE.—This Law came into force on the 1st January 1922 by Notification No. 1-1897-W-1920, dated the 3rd January 1922.

2. (1) On and from the day on which this Law comes into force, sections 78 and 79 and the words “or tenant” in sections 82 (1) and 223 of the Berar Land-revenue Code, 1896, shall, subject to the other provisions of this section, be repealed as regards villages to which this Law extends.

(2) Any law or document referring to sections 78 and 79 or to the repealed portion of sections 82 and 223 of the Berar Land-revenue Code, 1896, shall be construed as referring to this Law.

Short title,
extent and
commence-
ment.

Repeal and
savings.

(3) All fines imposed, agreements executed or accepted, leases granted, rights acquired, liabilities incurred, and other things done under any of the sections of the Berar Land-revenue Code, 1896, hereby repealed, shall, so far as they are consistent with this Law, be deemed to have been respectively imposed, executed, accepted, granted, acquired, incurred and done hereunder.

(4) All proceedings pending at the commencement of this Law which have been commenced under any of the sections of the Berar Land-revenue Code, 1896, hereby repealed, shall be deemed to have been commenced under this Law, and shall thereafter be conducted in accordance with the provisions of this Law.

3. In this Law, unless there is anything repugnant in the subject or context,—

Definitions.

(1) the expressions “agricultural year”, “alienated”, “Deputy Commissioner”, “Assistant Commissioner”, “rent”, “Revenue-officer”, and “Revenue year” have the meanings assigned to them, respectively, in the Berar Land-revenue Code, 1896 :

(2) “arrear” means an instalment or part of an instalment of rent, which is not paid on or before the date on which it is payable :

(3) “holding” means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(4) “improvement” means, with reference to a holding, any work which adds materially to the letting value of the holding, which is suitable thereto and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it ; and, subject to the foregoing provisions, includes—

(a) the construction of tanks, wells, water-channels, embankments and other works for storage, supply or distribution of water for agricultural purposes ;

(b) the construction of works for the drainage of land, or for the protection of land from floods or from erosion or other damage from water ;

(c) the planting of trees, and the reclaiming, clearing, enclosing, levelling or terracing of land ;

- (d) the erection of buildings on the holding or in its immediate vicinity, elsewhere than in the village site, required for the convenient or profitable use or occupation of the holding; and
- (e) the renewal or reconstruction of any of the foregoing works, alterations therein or additions thereto;

but does not include—

- (i) temporary wells and such water-channels, embankments, levellings, enclosures or other works, or petty alterations in, or repairs to, such works as are commonly made by tenants of the locality in the ordinary course of agriculture; or
- (ii) any work which substantially diminishes the value of any other land belonging to a landlord or occupied by a tenant unless made with the written consent of the landlord or, in the case of land occupied by a tenant, also with the written consent of such tenant.

Explanation.—A work which benefits several holdings may be deemed to be an improvement with respect to each of such holdings:

(5) “land” means land which is let or occupied for agricultural purposes or purposes subservient thereto, and includes the sites of buildings appurtenant to such land:

Explanation.—“Agricultural purposes” includes the growing of trees, the cultivation of vegetables and the reservation of land for grass:

(6) “landlord” means the person of whom a tenant holds land and to whom the tenant is, or, but for a contract would be, liable to pay rent for such land;

(7) “pay”, “payable” and “payment” used with reference to rent, include “deliver”, “deliverable” and “delivery”, respectively:

(8) “record-of-rights” means the record prepared and maintained under sections 96-A to 96-L of the Berar Land-revenue Code, 1896:

(9) “Settlement-officer” means the officer deputed to conduct a Revenue Survey under section 84 (1) of the Berar Land-revenue Code, 1896: and

(10) “tenant” means a person who holds land of another person, and is, or, but for a contract, would be,

liable to pay rent for such land to such other person, but does not include a farmer, mortgagee, or lessee of proprietary rights, or a person holding directly from Crown.

CHAPTER II.—OF TENANTS GENERALLY

A.—Classification of Tenants.

4. There shall be four classes of tenants, namely : — Classes of tenants.
- (1) ante-alienation tenants ;
 - (2) permanent tenants ;
 - (3) sub-tenants ; and
 - (4) ordinary tenants.

B.—Provisions relating to rent.

5. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of such holding for the agricultural year immediately preceding. Presumption as to amount of rent payable.

6. An order fixing, altering or commuting the rent of a holding shall take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration of the holding, from the date of such increase, diminution or deterioration, unless such order directs that it shall take effect from any date subsequent thereto. Date from which order fixing rent operates.

7. Rent shall be payable in such instalments and on such dates as may be prescribed by rules made under section 82, and, in the absence of such rules, according to the contract between the parties, or if there is no such contract, according to local usage. Time for payment of rent.

In exercise of the powers conferred by section 82, sub-section (2), clause (a), and with reference to section 7 of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rules prescribing the instalments in which, and the dates on which, rents shall fall due :— Notfn. No. 1658-882-XII, d. 3-7-22.

1. The instalments in which the annual rent of an ante-alienation, permanent or ordinary tenant in any village shall be payable shall not exceed in number the instalments in which the land revenue assessed upon the village is payable to Government.

2. Unless the Local Government shall otherwise direct an order embodied in the record-of-rights of any village or of villages and ante-alienation, permanent or ordinary tenants in any village shall not pay more than the amount of the annual rent payable by them.

tabi harvest an instalment or rent exceeding an amount which bears the same proportion to his whole yearly rent as the amount payable to Government on account of that village for the same instalment bears to the whole yearly revenue assessed upon the village.

3. The date upon which the rent instalments of all classes of tenants shall be payable shall be one month before the date on which the corresponding instalment of land revenue is payable to Government.

Rent payable
to a number
of landlords.

8. If two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to rules made under section 82, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others, and subject to any such rule or contract, such person shall, if the tenant so desires, appoint one of their number or some other person to receive such rent.

Notfn.
No. 1839-
1372-XII,
d. 18-7-22.

In exercise of the powers conferred by section 82, sub-section (2), clause (b), and with reference to section 8 of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rule regulating the appointment of one of several landlords of a holding as the person to receive the rent thereof:—

When a tenant holding from two or more landlords in respect of the same holding desires that such landlords shall appoint one of their number to receive the rent of the holding, he shall move the Tahsildar to intimate his desire to such landlords. The Tahsildar shall thereupon call upon the landlords to make such an appointment and to intimate to him within one month the name of the landlord so appointed and shall communicate the same to the tenant concerned.

Power to
deposit rent
in certain
cases with
Revenue
Officer.

9. (a) If a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant, or

(b) if under section 8 a tenant desires the appointment of a person to receive rent payable in money, and such appointment is not made within a reasonable time, or

(c) if a tenant in any case is doubtful as to the person entitled to receive rent payable in money, such tenant may apply to a Revenue-officer for permission to deposit the amount of rent which he believes to be due.

Contents of
application
under
section 9.

10. (1) The application referred to in section 9 shall contain a statement of the ground on which it is made and shall state—

(a) the name of the person or persons to whose credit the deposit is to be entered; or

(b) the name of the person or persons to whom the rent is due ; or

(c) the name of the person or persons to whom rent was last paid, and of the person or persons now claiming it.

(2) The application shall be verified as a plaint, and shall be accompanied by such fee as may be prescribed by rules made under section 82.

In exercise of the powers conferred by section 82, sub-section (2), clause (c), and with reference to section 10, sub-section (2), of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rule prescribing fees on applications for permission to deposit rent :—

Notfn.
No. 890-375-
XII,
d. 8-4-22.

An application made by a tenant under section 9 of the Law for permission to deposit rent which he believes to be due to the landlord shall be accompanied by a fee of eight annas which shall be in court-fee labels affixed to the application.

11. (1) If it appears to the Revenue-officer that the applicant is entitled to make the deposit under section 9, he shall receive such deposit and give a receipt therefor.

Receipt to be
granted.

(2) Such receipt shall operate as an acquittance for the amount of the rent payable by the tenant and deposited by him, in the same manner and to the same extent as if such amount had been paid to the person to whom it was due.

Receipt a
valid acquit-
tance.

12. The Revenue-officer shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims, or is entitled to, the deposit.

Notice of
deposit.

13. The Revenue-officer may pay the amount of such deposit to any person appearing to him to be entitled thereto, or may retain it pending a decision of the Civil Court as to the person entitled thereto.

Payment of
deposit.

14. No suit or other proceeding shall be instituted against the Crown, or against any officer of Crown in respect of anything done regarding a deposit under sections 9, 10, 11, 12 and 13, but nothing in this section shall prevent any person, entitled to recover the amount of such deposit, from recovering the same from any person to whom it has been paid under section 13.

Barring of
suits.

15. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent or any other due legally payable shall, on the application of such tenant, be liable by order of a Revenue-officer, not below the class of

Penalty for
levy of
anything in
excess of
rent by
landlord.

Deputy Commissioner, to pay as penalty a sum not exceeding five hundred rupees, or, if double the amount or value of the sum levied exceeds five hundred rupees, not exceeding double such amount or value, and such Revenue-officer may direct that the whole or part of such sum shall be paid as compensation to the tenant.

Presumption
as to pay-
ments by
tenant.

Payments on
account of
instalments.

16. (1) If rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees in writing, be presumed to be a payment on account of rent.

(2) If a tenant makes a payment on account of rent, he may declare the year or the year and instalment to which he wishes the payment to be credited, and such payment shall be credited accordingly.

(3) If a tenant does not make any such declaration, the landlord may credit the payment to any arrear not barred by limitation.

Right of
tenant to
receipt for
rent.

17. (1) A tenant who makes a payment on account of rent shall be entitled to obtain forthwith from the landlord a written receipt therefor.

(2) The receipt shall be in such form, and shall specify such particulars as may be prescribed by rules made under section 82.

(3) If a receipt does not contain the particulars specified in sub-section (2), it shall be presumed, until the contrary is shown, to be an acquittance in full for all arrears of rent due on the date on which the receipt was given.

Notfn.
No. 1689-
XII,
0-7-22.

In exercise of the powers conferred by section 82, sub-section (2), clause (d), read with section 17 of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rules prescribing the form of receipt book for the use of tenants and the particulars to be specified therein :—

(1) The receipt to be given to tenants shall be in the form of the third statement appended to these rules. To it shall be attached statements in the form on the first and second statements appended to these rules. A convenient number of these forms shall be bound into a book with a title page as given in the form appended hereto. The book shall be kept by the tenant.

(2) The title page and the first two statements shall be filled in by the patwari of the village.

(3) The entries in the third statement shall be filled in by the landlord or his agent when the payment of rent is made by the tenant, and the receipt book is produced by the tenant for the purpose.

(4) If the tenant fails to produce his receipt book when making a payment, the landlord or his agent shall grant a receipt in the form of the third statement.

Title page.

Rashid-bahi No. , Village

Name of tenant with father's name,
caste and residence.

Kists how paid First kist, annas Second kist, annas

Abstract of holding

Right Area Rent or revenue
Survey No. and Sub-division No., if any

Cesses.

Rate per rupee under the Berar Land-revenue Code, if any
under the Local Self-Government Act;
if any

STATEMENT I.—Particulars of demand.

Whether kabuli, ektarfa or takrari	On account of past 3 years				On account of current year			Grand total, i.e., total of columns 5 and 8	Date and signa- ture of pat- war
	Year	Year	Year	Total	1st kist	2nd kist	Total		
1	2	3	4	5	6	7	8	9	10
Rent ..									
Cesses ..									
Cesses under the Berar Land- revenue Code, if any.									
Cesses under the Local Self- Government Act, if any.									

NOTE.—In making this entry the patwari shall be guided by the following rules:—

- If both parties agree, the amount agreed upon shall be entered, and the word "kabuli" noted in column 1.
- If the landlord is absent, and the entry is made on the assertion of the tenant, the amount so asserted shall be entered, and the word "ektarfa" noted in column 1.
- If the landlord and tenant disagree, the amount shall be entered as claimed by the landlord, and the word "takrari" noted in column 1.
- In filling up columns 2—4 of the rashid-bahi "demand page" arrears should be shown in detail according to the years on account of which they are due.

18. A landlord, who refuses to grant a receipt for rent paid by a tenant, or grants such receipt, but refuses or neglects to enter therein the particulars specified in section 17, shall, on the application of the tenant, be liable by order of a Revenue-officer, to pay as penalty a sum not exceeding double the amount or value of the rent so paid, and such Revenue-officer may direct that the whole or part of such sum shall be paid as compensation to the tenant.

Penalty for refusing receipt or giving defective receipt.

19. If the area of a holding, the rent of which is payable in money, is increased or diminished by fluvial action or otherwise, or if the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other circumstance a Revenue-officer, not below the rank of Assistant Commissioner, may, notwithstanding any contract between the parties, on the application of the landlord or of the tenant, alter the rent with reference to such increase, diminution or deterioration.

Power to alter rent when holding is increased, diminished or deteriorated.

20. (1) If from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of such land to an amount which would bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect thereof, and may distribute the amount so remitted or suspended amongst the tenants holding such land in such manner as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue:

Remission and suspension of rent consequent on like treatment of land revenue.

Provided that, if the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) No Civil Court shall entertain or try any suit to recover any rent the payment of which has been remitted or suspended, and any such suit pending at the date of the order of remission or suspension under sub-section (1) shall be dismissed, and no order regarding costs shall be made.

(3) If the rent suspended is subsequently ordered to be recovered, the plaintiff or his successor in interest may apply for the suit to be restored, and it shall hereupon be proceeded with.

(4) If the payment of any rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of such rent.

(5) The provisions of sub-sections (1), (2), (3) and (4) shall apply to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) If subsequent to the publication of any order of remission or suspension the landlord collects any rent, of which the payment has been remitted, or, before the expiry of the period of suspension, collects any rent the payment of which has been suspended, he shall be liable to such penalty not exceeding three times the sum so collected as may be fixed by the Deputy Commissioner.

(7) Nothing in sub-section (6) shall affect the right of a tenant from whom such recovery has been made to recover a penalty under section 15.

C.—Of the Landlord's Lien on the Produce of a Holding.

21. In sections 22 to 29 the produce of a holding means—

- (a) crops and other products of the earth standing or ungathered on the holding;
- (b) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

22. The produce of every holding in the cultivation of a tenant shall be deemed to be hypothecated for the rent payable in respect of such holding by such tenant and by every person intermediate, other than a lessee of proprietary rights, between such tenant and the proprietor, and until such rent has been paid, no other claim on such produce shall be enforced by sale in execution of a decree of a Civil Court or order of a Revenue-officer or otherwise.

inition of
produce of
holding”.

potheca-
a of pro-
ce for rent.

23. (1) If an arrear is due in respect of a holding, the landlord may by notice served on the tenant or person in charge of the produce of such holding, prohibit the removal of such produce :

Power of landlord, by notice, to prohibit removal of produce.

Provided that—

(1) such prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Civil Court ; and

(2) such prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

(2) Such notice shall, if practicable, be served personally on the tenant or person in charge of the produce of the holding, or if he cannot be found, shall be affixed to his usual place of residence.

24. Every notice under section 23 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed and, if an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or contract, as the case may be, for the payment of such amount.

Contents of notice.

25. (1) A notice under section 23 shall not prevent the cultivator from tending, reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Right to reap, etc., produce not affected.

(2) If the cultivator neglects to do so, the landlord may cause the produce to be tended, reaped, gathered or stored in some convenient place in the village at the expense of the cultivator.

26. (1) The landlord may, within seven days from the date of service of a notice under section 23, apply to a Revenue-officer for the attachment and sale of the produce in respect of which such notice has been served.

Attachment and sale of produce after notice.

(2) Such application shall contain a statement of the arrears due, and a list of such produce, the place where it is to be found, the name and place of residence of the tenant, and shall be signed and verified as if it were a plaint.

(3) If no such application is made, or if the arrears specified in the notice are paid in full, the notice shall cease to be in force.

Procedure for
attachment
and sale of
produce.

27. (1) On receipt of such application, the Revenue-officer shall issue a warrant of attachment of the produce and a notice to the tenant calling on him to pay the arrear, or to show cause why the produce should not be sold.

(2) If the arrear is paid or if cause is shown, the produce shall be released from attachment.

(3) If the arrear is not paid or if no cause is shown, the Revenue-officer may order the sale of the produce.

(4) In the conduct of sales and in the disposal of the sale-proceeds or produce, the Revenue-officer shall exercise all the powers conferred on, and follow the procedure laid down for, Civil Courts in executing decrees for money.

Procedure
when produce
is under
attachment.

28. (1) If the produce of any holding is attached by order of a Civil Court, such Court shall give notice of such attachment to the landlord, who may apply to such Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(a) any rent which has fallen due to him in respect of the holding within the previous or current agricultural year; and

(b) the instalment of rent of the current agricultural year falling due next after the date of the attachment.

(2) If the Court on enquiry finds the landlord's claim to the whole or any part of the rent to be proved, it shall sell the produce or such portion thereof as it may deem necessary and shall apply the proceeds of the sale, in the first instance, to satisfy such claim.

(3) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

Penalty for
illegal
distrain by
landlord, and
for illegal
removal of
produce.

29. (1) Any landlord of a holding who distrains or attempts to distrain the produce of such holding, or prevents or attempts to prevent any person from tending, reaping, gathering, storing, removing or otherwise dealing with any such produce, shall be liable by order of a Revenue-officer to a penalty which may extend to five hundred rupees, and such sum shall be awarded to the tenant as compensation.

(2) Nothing in sub-section (1) shall affect the right of any person to recover compensation in a civil suit :

Provided that the Court in any such suit shall take into account any sum paid or recovered as compensation under sub-section (1).

(3) If a notice in respect of the produce of a holding has been served under section 23 and is in force, any person who, knowing or having reason to believe that such notice is in force, removes, attempts to remove or abets the removal of such produce, except for any of the purposes mentioned in section 25, shall be liable by order of a Revenue-officer to a penalty which may extend to five hundred rupees.

D.—Of Improvements and Compensation therefor.

30. An ante-alienation tenant or a permanent tenant shall be entitled to make improvements in his holding without the permission of his landlord. right to make improvements.

31. (1) If a permanent tenant, or a person under whom such tenant claims, has made an improvement in respect of his holding, or if a tenant, not being an ante-alienation tenant or a permanent tenant has, with the written consent of his landlord, made an improvement in respect of his holding, he shall not be ejected until he has received compensation for such improvement, unless it was begun by him after the institution of the proceedings which resulted in the decree or order for his ejection. Liability to pay to tenant on ejection compensation for improvements.

Provided that no compensation shall be claimable under this section for an improvement if the tenant has made such improvement in pursuance of a contract binding him in consideration of some substantial advantage to be obtained by him to make the improvement without compensation, and has obtained such advantage.

months of the date of the order of the Court requiring him to do so, the decree shall be deemed to be fully satisfied.

(3) If a Revenue-officer orders the ejectment of a tenant in execution of a decree for arrears of rent, he shall, subject to rules made under section 82, determine the amount of compensation, if any, due under this section, and unless the landlord deposits such amount, less any arrears and costs decreed in the suit as due to the landlord within three months of the date of the order, the Revenue-officer shall not eject the tenant, and shall return the decree to the Civil Court as unsatisfied.

Notfn.
No. 1653-
893-XII,
d. 3-7-22.

In exercise of the powers conferred by section 82, sub-section (2), clause (e), of the Berar Alienated Village Tenancy Law, 1921, the Local Government is pleased to make the following rules for the regulation of matters connected with improvements under section 31 of the Law :—

1. When a Revenue-officer is required to determine the amount of compensation payable under section 31 (3), he may for the purpose associate with himself not less than two and not more than six assessors.

2. In framing the award the Revenue-officer should estimate the net amount to be repaid to the tenant, *i.e.*, the capital cost of the improvement with interest calculated at nine per cent per annum *minus* the amount already recouped by the improvement.

3. No award shall be made final till both the landlord and the tenant have had opportunity to show cause why it should not be accepted.

Assessment of
compensation

32. (1) In estimating the compensation to be awarded under section 31, regard shall be had—

(a) to the amount by which the letting value, or the produce of the holding, or the value of such produce, is increased by the improvement;

(b) to the labour and capital required for the making of the improvement; and

(c) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

(2) If the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be paid wholly or partly in some other way.

33. (1) If the improvement benefits both land from which the tenant is to be ejected and other land in his occupation, the compensation payable shall be estimated with reference to the extent to which the land from which the tenant is to be ejected has benefited by such improvement.

Improvements benefiting land from which a tenant is not ejected.

(2) If the improvement has been executed on land from which the tenant is to be ejected, the landlord, on payment of the compensation awarded to such tenant shall become the owner of the improvement, and the tenant shall be entitled to the benefit of the improvement in respect of the land remaining in his occupation, to the same extent and in the same manner as such land has hitherto benefited thereby.

(3) If the improvement has been executed on land which remains in the occupation of the tenant, the landlord, on payment of the compensation awarded to such tenant, shall be entitled to the benefit of the improvement in respect of the land from which the tenant is ejected, to the same extent and in the same manner as such land has hitherto benefited thereby.

34. If a dispute arises between a tenant and his landlord, otherwise than in a suit for ejectment or for arrears of rent—

Disputes as to right to make improvements.

- (a) as to the right to make an improvement, or
- (b) as to whether a particular work is an improvement, a Revenue-officer, not below the rank of Assistant Commissioner, shall, on the application of either party, decide the dispute.

35. A stipulation in a contract providing—

- (a) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, an improvement on his holding which he is entitled to make under this Law ;
- or
- (b) that a tenant on ejectment from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Law, be entitled to such compensation ;

Avoidance of provisions barring right to make or be compensated for improvements.

shall be void.

E.—Of Surrender and Abandonment.

Surrender
of holding
by a tenant.

36. Any tenant not bound by a lease or other contract for a fixed period may, by delivering to his landlord not less than thirty days before the date of the commencement of the agricultural year a written document executed in favour of the landlord, surrender his holding, and thereupon shall cease to be a tenant from the agricultural year next following such date :

Provided that, where the holding to be surrendered is that of an ante-alienation or permanent tenant, the surrender shall not be valid unless effected by a registered document.

Abandonment
of holding by
a tenant.

37. (1) If a tenant other than an ante-alienation tenant ceases to cultivate his holding, either by himself or by some other person, and has left the neighbourhood and has failed to pay any instalment of rent as it fell due, the landlord may at any time after the end of the agricultural year in which the tenant left the neighbourhood and ceased to cultivate the holding, enter on the holding and let it to another tenant or cultivate it himself :

Provided that, before such entry, the landlord shall file a notice in the office of the Tahsildar stating that he proposes to treat the holding as abandoned and is about to enter on it, and such notice shall be published in such manner as may be prescribed by rules made under section 82.

(2) After the expiry of fifteen days from the date of publication of such notice the landlord shall be entitled to enter.

In exercise of the powers conferred by section 82, sub-section (2), clause (f), of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rules prescribing the form of notice to be given by the landlords and the manner of publication of such notice, under the proviso to sub-section (1) of section 37 :—

1. The notice to be filed by the landlord in the office of the Tahsildar under the proviso to sub-section (1) of section 37 of the Berar Alienated Villages Tenancy Law, 1921, shall be in the form appended to these rules and shall be accompanied with Re. 1 court-fee as process-fee for the publication of the notices.

2. The Tahsildar shall forthwith cause one copy of the notice to be affixed in the tahsili, a second copy in some conspicuous place in the village in which the holding is situated or from which it is cultivated and a third copy in the village in

Notfn.
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576-XII,
d. 8-4-22.

which the tenant usually resides. The Tahsildar shall file the original notice with an endorsement showing the acts and manner in which it has been served and published.

Notice under the proviso to section 37, sub-section (1), of the Berar Alienated Villages Tenancy Law, 1921.

To

The Tahsildar,

Whereas _____, son of _____, caste, _____, ^{a permanent}_{an ordinary} tenant in village _____, has ceased to cultivate the holding hereinunder specified, has failed to pay the rent due on it and has left the neighbourhood, this is to give notice under the proviso to sub-section (1) of section 37 of the Berar Alienated Village Tenancy Law that I propose to treat the holding as abandoned and to enter on it in accordance with the provisions of section 37 of the Law.

Specification of holding.

Name of village.	Survey No. and Sub-division No. (if any) of holding.	Area.	Rent.

(Sd.)

Landlord.

NOTE.—The copies of this notice to be served or published should be countersigned by the Tahsildar.

F.—Miscellaneous.

38. If a person, at the time of taking a lease or farm, is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking such lease or farm. Tenant taking lease or farm.

39. A principal Civil Court of original jurisdiction may, on the application of the proprietor of a holding and on being satisfied that he is desirous of acquiring the holding or part thereof for some reasonable and sufficient Acquisition of tenant's land for reasonable and sufficient purpose.

purpose having relation to the good of the holding or of the estate in which it is comprised, including the use of the ground as building-ground, or for any industrial, religious, educational or charitable purpose, and on being satisfied, on the certificate of the Deputy Commissioner, that the purpose is reasonable and sufficient, authorize the acquisition thereof by the proprietor upon such conditions, as the Court may think fit, and require the tenant to sell his interest in the holding or such part of the holding to the proprietor upon such terms as may be approved by the Court, including full compensation to the tenant.

Notfn.
No. 1407-
1072-XII,
d. 25-5-22.

In exercise of the powers conferred by section 82, sub-section (2), clause (g), of the Berar Alienated Villages Tenancy Law, 1921 the Local Government is pleased to make the following rules for the regulation of the acquisition of a tenant's land by the landlord under section 39 of the Law :—

1. Any person who wishes to obtain under section 39 a certificate that the purpose for which he is desirous of acquiring the holding of his tenant is reasonable and sufficient shall make a petition in writing to the Deputy Commissioner. If an application to the Civil Court under that section has already been filed, the petition to the Deputy Commissioner shall be made through such Court.

2. Such application shall specify the names of the tenants and of all persons who have legally acquired any interest in the holding, the survey numbers and sub-division numbers (if any) of the land to be acquired, the right in which the land is held and the purpose for which the land is required, and if part of an individual survey number of a sub-division is sought to be acquired a map of the land drawn to scale shall accompany the application.

3. The Deputy Commissioner may, after such preliminary enquiry as he thinks fit, either reject the application or issue a notice to the tenant of the holding to show cause why the holding should not be acquired. If he issues such a notice he shall at the same time publish a proclamation in the village in which the holding is situated or from which it is cultivated calling on all persons who claim any interest in the holding to show cause why it should not be acquired.

4. The Deputy Commissioner, after hearing the parties and any evidence that may be produced, shall record an order either rejecting the application or certifying that the purpose for which the proprietor is desirous of acquiring the holding is reasonable and sufficient.

NOTE.—(1) This section is borrowed from section 84 of the Bengal Tenancy Act 1885, and section 186 of the Madras Estates Lands Act, 1908. The restriction on the right of transfer by permanent tenants may give rise to difficulties in obtaining land for the extension of village sites, the creation of factories and other non-agricultural purposes, and the object of this section is to facilitate the acquisition of land for such purposes.

(2) The following principles are laid down to assist the Deputy Commissioner in determining what may be deemed a reasonable and sufficient purpose. In no

case should he certify that the purpose is reasonable and sufficient, unless he is satisfied that the proprietor has not got in his own possession land which is equally suitable for the purpose in view. Purposes for which holdings may be required fall into two classes :—

- (1) Those which may be regarded as for the good of the village community
- (2) Those which, though primarily for the benefit of the individual, are for the general welfare of the country.

(3) In the former class some such purposes as the construction or expansion of an irrigation work, the providing of land for the extension of a crowded village, the improvement of village communications, land for schools, temples, cattle stands, sarais, burial and burning places, camping grounds, bazars and wells for drinking purposes. Even for such purposes, however, a certificate should not be given indiscriminately. Thus an irrigation work, which submerges tenant land but will benefit exclusively or almost exclusively the land of the proprietor of the village should not be regarded as a sufficient purpose. If, however, a large number of tenants will benefit by the construction of the proposed work, the acquisition would be justifiable. The construction of a village road to give direct communication with a main road is a sufficient purpose, but the Deputy Commissioner should satisfy himself that the proposed arrangements will not cause any avoidable inconvenience. If the land is required for the extension of building sites in the village, he should satisfy himself that the area asked for is not larger than is required for the present and probable future needs of the community and that less valuable agricultural land will not serve the purpose equally well.

(4) Under the second category comes the acquisition of land for industrial purposes. In addition to the general consideration that the proprietor does not himself possess any suitable land, the Deputy Commissioner should see that the purpose is not one which will cause inconvenience to the villagers or in any way offend their feelings. Thus the establishment of a tannery near a village site inhabited by chamars would be a reasonable purpose, but should not be permitted near the habitation of high class Hindus. As it is usual for the proprietor to obtain a substantial sum for land used for an industrial purpose, the Deputy Commissioner should ascertain what that sum is and should not grant a certificate unless the proprietor agrees to hand over a substantial proportion of the consideration to the tenant.

(5) The Deputy Commissioner should also see that the section is not used by a proprietor to harass a tenant with whom he may be on unfriendly terms. To safeguard the tenant that no more land is acquired than is needed for the purpose, the Deputy Commissioner should see that the certificate is given only for the acquisition of a part of the holding subject to the condition that the proprietor agrees to treat the remaining portion as a holding and to accept such rent as may be fixed by the Deputy Commissioner in the proceedings. The Deputy Commissioner should not, however, certify the acquisition of a part of a holding unless the remainder can be profitably used by a tenant.

CHAPTER III.—ANTE-ALIENATION TENANTS

40. Every tenant, other than a sub-tenant, who has, either by himself or by himself and through his predecessor in title, sub-tenant or mortgagee in possession, held land continuously in an alienated village from a period antecedent to the alienation, shall be deemed to be an ante-alienation tenant of such land.

Definition of
"ante-
alienation
tenant."

41. An ante-alienation tenant is entitled to the use and occupation of his holding in perpetuity conditionally on the payment to his landlord of a rent equal to the assessment on the land determined under sub-section (3) of section 88, of the Berar Land-revenue Code, 1896, and free of any other charge on account of rent.

Rights of
and rent
payable by
ante-alienation
tenant.

Transfer of
right of ante-
alienation
tenant and
succession
thereto.

42. (1) The right of an ante-alienation tenant in his holding shall be transferable, and on the death of such tenant the succession thereto shall be regulated by the personal law of the deceased tenant.

(2) If an ante-alienation tenant dies intestate and without heirs, his right shall escheat to the alienee, or, if the alienation has been resumed, to the Crown.

Right of
pre-emption.

43. (1) If the right or any part of the right of an ante-alienation tenant is transferred by sale, foreclosure of mortgage, relinquishment in favour of a specified person, or otherwise, every co-tenant in the same holding shall have a right of pre-emption, and in default of co-tenants, the landlord shall have a right of pre-emption.

(2) The provisions of sections 206 to 214 of the Berar Land-revenue Code, 1896, shall apply to such right, the co-tenants and landlords being deemed to be co-occupants for the purposes of the said sections.

Ante-alienation
tenant
not liable to
ejectment.

44. Notwithstanding any contract to the contrary, an ante-alienation tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first
charge on
holding and
holding
saleable in
execution of
decree for
arrears of
rent.

45. The rent of the holding of an ante-alienation tenant shall be a first charge thereon, and, notwithstanding anything contained in section 100, of the Transfer of Property Act, 1882, and Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908, such holding shall be liable to sale for the satisfaction of such charge in execution of a decree for rent against the tenant, whether such decree orders such sale, or not. IV of
1882.
V of
1908.

Right of
person
claiming
interest to
deposit
decretal
amount.

46. Any person claiming an interest in the holding of an ante-alienation tenant may deposit in the Court executing a decree for rent on account of such holding the amount due under such decree, and such deposit shall be credited in satisfaction of such decree.

CHAPTER IV.—PERMANENT TENANTS

Definition of
“ permanent
tenant. ”

47. (1) A tenant, other than an ante-alienation tenant or a sub-tenant, who, at the commencement of this Law, has either by himself or by himself and through his predecessor in title, sub-tenant or mortgagee in possession, held land continuously from a date previous to the first day of June, 1895, shall, notwithstanding any agreement to the contrary executed prior to the commencement of this Law, be deemed to be a permanent tenant of such land.

Explanation.—A tenant shall be deemed to have held continuously at the commencement of this Law from a date previous to the first day of June 1895, though he may have been ejected on or after the first day of January, 1916, if he has been reinstated under section 75.

Exception.—Nothing in this sub-section shall apply to land originally brought under cultivation by the landlord and leased to the present tenant or his predecessor in title as first tenant by a written lease containing terms safeguarding the landlord against the accrual of tenancy rights of a permanent nature.

(2) A proprietor may at any time confer upon any tenant the rights of a permanent tenant.

48. (1) On the death of a permanent tenant the succession to his holding shall be regulated by the personal law of the deceased. Succession to permanent tenants' holding.

(2) If a permanent tenant dies intestate and without heirs, his right shall escheat to the alienee, or if the alienation has been resumed, to the Crown.

(3) Except in pursuance of a transfer permitted by this Law, no decree or order shall be passed for the sale of the right of a permanent tenant in his holding, nor shall such right, be attached or sold in execution of any decree or order, nor shall a receiver be appointed to manage such holding under section 51 of the Code of Civil Procedure, 1908, nor shall such right vest in the court or in a receiver under the Provincial Insolvency Act, 1907. Exemption of permanent tenants' right from Court sales.

(4) No permanent tenant shall be entitled to sell, make a gift of, mortgage, sub-let, except for a period not exceeding one year, or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease, other than for a period not exceeding one year, or transfer shall be voidable in the manner and to the extent specified in section 49: Prohibition of transfer of permanent tenants' right.

Provided that—

(i) a permanent tenant may transfer his right to any person who, if he survived the tenant, would inherit such right or to any person in favour of whom as a co-tenant such right originally arose, or who has become by succession a co-tenant therein; and

(ii) nothing in this section shall prevent a permanent tenant from transferring his right in his holding to secure repayment of, or shall affect the right of Government to sell the

aforesaid right for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, or shall affect the right of the purchaser at such sale to succeed to such holding.

Prohibition of contracts for future sub-leases.

(5) No contract for the sub-lease of the holding of a permanent tenant or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; and every such contract shall be voidable in the manner and to the extent specified in section 49. XIX of 1883,
XII of 1884.

Prohibition of registration of documents transferring permanent tenant's rights.

(6) Notwithstanding anything contained in the Indian Registration Act, 1908, no officer empowered to register documents thereunder shall admit to registration any document which purports to transfer the right of a permanent tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit such right, or is a person in favour of whom as a co-tenant such right originally arose or who became by succession a co-tenant therein, or that the transfer is made to secure the repayment of any advance specified in the proviso to sub-section (4). XVI of 1908.

Right of certain persons to apply to set aside transfers of permanent tenant's rights.

49. (1) If a permanent tenant parts with any portion of his right in any land in contravention of section 48, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or, failing such person, the landlord from whom the permanent tenant held the land, may apply to a Revenue-officer, within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, to be placed in possession. subject, so far as the Revenue-officer may, in accordance with rules made under section 82, determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord for the necessary expenses of cultivation.

NOTES.—(1) Claims on account of rental arrears should be checked by reference to the rental accounts of the village. Arrears which have been outstanding for more than three years or which are time-barred under section 76 of the Law or otherwise shall not be admitted whether secured by bond or not.

(2) Alleged advances made by the landlord on account of seed-grain should be checked with reference to the area shown in the village papers as sown by the tenant during the year in which they are stated to have been made. Claims on account of advances of seed-grain or of money advanced for the purchase of seed-grain or bullocks should not be admitted if, in the opinion of the Revenue Officer, the seed-grain or money was not actually used for the cultivation of the holding.

(3) Interest should be allowed from the date of the advance at the rate of 9 per cent per annum.

(2) If any such application is made, the Revenue-officer shall make such inquiry as may be necessary, and may reject the application on the ground that the transfer was not in contravention of section 48. Procedure on application

(3) If the Revenue-officer finds that the transfer was in contravention of the said section, he shall issue a notice to the landlord and all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause a proclamation to issue in the village in or from which the holding was cultivated, inviting the landlord and all persons claiming to be heirs of the tenant to appear before him on a date fixed, and shall, after hearing all such persons as appear and any other persons who may apply to be heard, decide who from among such of them as desire to be placed in possession is first entitled to be so placed, and shall determine what amount, if any, is payable on account of the liabilities of the tenant specified in sub-section (1) and the period within which such amount shall be deposited in his Court, and shall place such person in possession on his depositing this amount within such period :

Provided that, if the transfer has been by sub-lease and the Revenue-officer is satisfied that the tenant is able and willing to cultivate the holding, the Revenue-officer may replace the tenant in possession of the holding on repayment to the sub-tenant of any consideration, which it is proved has been paid for the sub-lease, and to the applicant of the costs incurred by him in the application.

In exercise of the powers conferred by section 82, sub-section (2), clause (h), of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rules for regulating the procedure of Revenue-officers in disposing of claims made under section 49 of the Law to be placed in possession of a permanent holding :— Notfn. No. 1419-1021-XII, d. 24-5-22.

1. The Revenue-officer, when he invites the attendance of the landlord and the claimants to the holding by the issue of notices and proclamations under section 49 (3), shall at the same time issue notice to the tenant of the holding. The date of hearing to be fixed in any such notice shall not be less than six weeks from the date of the notice. A proclamation for the information of all heirs of the transferring tenant shall also be posted in the village in or from which the holding is cultivated.

2. The notice to the landlord and the tenant, the notice to the claimants and the proclamation shall be issued in forms I, II and III, respectively, appended to these rules.

3. No claim on account of arrears of rent or of advances for necessary expenses of cultivation shall be admitted which is not put forward on or before the date fixed under rule 1.

FORM I

Notice to landlord and tenant.

(Notice under section 49 (3), of the Berar Alienated Villages Tenancy Law, 1921):

Before the _____ at _____
 In the case of _____
 No. of case _____
 To _____, son of _____
 caste _____, resident of mauza _____
 taluq _____, district _____
 Whereas _____, son of _____
 caste _____, resident of mauza _____
 taluq _____, district _____, has applied
 for the cancellation of the deed of transfer executed by
 son of _____, caste _____,
 occupation _____, resident of mauza _____
 _____, taluq _____, district _____,
 in favour of _____, son of _____, caste _____
 _____, resident of mauza _____, taluq _____
 _____, district _____, in respect of land
 (Survey No.) _____, area _____, with _____ right,
 rental _____, situated in mauza _____,
 taluq _____, district _____, you are
 hereby informed that you should appear either personally or
 through a pleader or agent at _____
 on _____ day, the _____ of _____
 19 _____, and submit in the abovementioned
 case _____

If the notice is to
 landlord.

{ Your claims regarding arrears of rent or
 any advances which you may have made
 for the necessary expenses of cultiva-
 tion; otherwise your objections will not
 be considered.

If that notice is
 to tenant.

{ Your grounds for making the transfer
 hereinbefore described and objections, if
 any, for the cancellation thereof as
 applied for.

Seal.

Dated the.....19.

Revenue-officer.

FORM II

Notice to Claimants.

(Notice under section 49 (3) of the Berar Alienated Villages Tenancy Law, 1921).

Before the _____ at _____ ,
 In the case of _____ ,
 No. of case _____ .
 To _____ , son of _____ ,
 caste _____ , resident of mauza _____ ,
 taluq _____ , district _____ .
 Whereas _____ , son of _____ ,
 caste _____ , resident of mauza _____ ,
 taluq _____ , district _____ , has applied for the
 cancellation of the deed of transfer executed by
 _____ , son of _____ , caste _____ ,
 occupation _____ , resident of mauza _____ ,
 _____ , taluq _____ , district _____ ,
 in favour of _____ ,
 son of _____ , caste _____ , resident of
 mauza _____ , taluq _____ ,
 district _____ , in respect of land (Survey No.) _____ ,
 _____ , area _____ , with _____ , right,
 rental _____ , situated in mauza _____ ,
 taluq _____ , district _____ , you
 are hereby informed that you should appear either personally or
 through a pleader or agent at _____ on
 _____ day the _____ of
 19 _____ , and submit in the abovementioned case your claims in
 respect of the holding in question; otherwise your objection
 will not be considered.



Dated the.....193 .

Revenue-officer.

FORM III

Proclamation.

(Proclamation issued under section 49 (3) of the Berar
Alienated Village Tenancy Law, 1921)

Before the _____ at _____,
case No. _____, Head _____.
Whereas _____, son of _____,
caste _____, occupation _____,
resident of mauza _____, taluq _____, district _____,
_____ has applied for the cancellation of the deed of
transfer executed by _____, son of _____,
caste _____, occupation _____, resident of
mauza _____, taluq _____, district _____,
_____ in favour of
son of _____, caste _____,
resident of mauza _____, taluq _____,
district _____, in respect of land No. _____,
area _____, with _____ right, rental
_____ situated in mauza _____, taluq _____,
district _____, and the date of hearing has
been fixed for _____ 19 _____; at
o'clock at _____ all persons who claim to be heirs of the
transferring tenant _____ are hereby informed
that they should either personally or through a pleader or agent
take action in respect of their claim on the day fixed; otherwise
their objections will not be considered.


 Seal

Revenue-officer.

Dated the.....19 ..

50. (1) The rent of the holding of every permanent tenant shall be fixed in accordance with rules made under section 82 by the Settlement Officer at each settlement of the area in which such holding is comprised :

Rent of permanent tenant to be fixed at settlement.

Provided that such rent shall in no case be less than the assessment determined under sub-section (3) of section 88 of the Berar Land-revenue Code, 1896, on the land comprised in the holding, or, if such land has not been assessed, a sum equal to the assessment calculated at the survey settlement rates for the class of the land comprised in the holding.

(2) Subject to rules made under section 82, the rent payable in money by any such tenant when this Law comes into force may, for special reasons to be recorded in writing, be reduced by order of a Revenue-officer, not below the rank of Assistant Commissioner :

Provided that in no case shall the rent be reduced to a sum below three times the assessment determined under sub-section (3) of section 88 of the Berar Land-revenue Code, 1896, on the land comprised in the holding, or, if such land has not been assessed, three times a sum equal to the assessment calculated at the survey settlement rates for the class of the land comprised in the holding.

(3) The rent payable by any such tenant in respect of his holding when this Law comes into force, or if the rent has been reduced under sub-section (2), such reduced rent shall be deemed to have been fixed at the last preceding settlement of the area in which the holding is comprised.

In exercise of the powers conferred by section 82, sub-section (2), clause (i), of the Berar Alienated Villages Tenancy Law, 1921, the Governor in Council is pleased to make after previous publication, the following rules for the regulation of the principles on which, and the procedure by which, rent of the holding of every permanent tenant shall be fixed or reduced under section 50 of the said Law :—

Amdt. No. 4
d. 10-2-28.
Notfn. No.
20-XVI, d.
11-1-28.

RULES UNDER SECTION 82, SUB-SECTION (2), CLAUSE (i) OF THE BERAR ALIENATED VILLAGES TENANCY LAW

1. If any agreement has been reached between the Izardar and the tenant the amount agreed upon shall ordinarily be fixed as rent. Before fixing that amount, however, the Settlement Officer shall satisfy himself that the agreement is genuine.

2. If no actual amount has been agreed upon but there is an existing agreement between the Izardar and the tenant as regards the method of fixing the rent, the method shall be taken into consideration by the Settlement Officer and, unless it appears to involve injustice, shall be accepted.

3. If no actual amount of rent nor any method of fixation have been agreed upon, the Settlement Officer in determining the rent shall be guided by a comparison with the payments made by tenants at will for similar land enjoying similar advantages. The Settlement Officer shall also take into account the incidence on the holding of the Government fair assessment and of the present rent which he is required to revise.

4. No rent shall be reduced to a figure below three times the fair assessment fixed on the land.

Enhancement
of rent say-
able by per-
manent tenant
during settle-
ment.

51. Subject to rules made under section 82, the rent fixed under section 50 or under any other provision of this Law and payable in money may, during the currency of a settlement, be enhanced—

(a) by agreement between the landlord and tenant; or

(b) by the landlord, subject to the condition that the enhanced rent shall not exceed double the rent so fixed or three times the assessment determined under sub-section (3) of section 88 of the Berar Land-revenue Code, 1896, on the land comprised in the holding, or, if the land has not been assessed, three times a sum equal to the assessment calculated at the survey settlement rates for the class of the land comprised in the holding, whichever may be less; or,

(c) on the application of the landlord by order of a Revenue-officer, not below the rank of Assistant Commissioner, in accordance with the provisions of section 19, or on the ground that—

(i) the rate of rent is below the rate paid by permanent tenants for land of a similar description and with similar advantages in the same village or neighbouring villages, and that there is no sufficient reason for the tenant holding at so low a rate;

(ii) there has been a rise in the average local prices of produce since the rent was last fixed; or

- (iii) since the rent was last fixed, there has been a permanent increase in the total area under cultivation within the holding; or
- (iv) on any other ground declared by the Local Government to justify an enhancement.

52. If the rent of a permanent tenant is enhanced by agreement under clause (a) of section 51, the landlord shall in accordance with rules made under section 82, give notice to the Tahsildar of such enhancement and notwithstanding such agreement, such enhancement shall not take effect until the commencement of the agricultural year following the date of such notice.

Procedure for enhancement of rent by agreement.

53. The rent of a permanent tenant shall not be enhanced under clause (b) of section 51, without notice in writing served by the landlord upon the tenant through the Tahsildar, in accordance with rules made under section 82, at least six months before the commencement of the agricultural year from which the enhancement is to take effect.

Procedure for enhancement of rent by landlord.

In exercise of the powers conferred by section 82, sub-section (2), clause (i), of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rules in regard to the reduction of rent of a permanent tenant under section 50, sub-section (2), and to the enhancement of rent under sections 51, 52 and 53 of the Law :—

Notfn. No. 2131-1034-XII, d. 17-8-22.

REDUCTION OF RENT UNDER SECTION 50, SUB-SECTION (2) OF THE LAW

1. Action may be taken by a Revenue-officer on receipt of an application from the tenant concerned.

2. Before any rent is reduced, the landlord shall be consulted by the Revenue-officer.

3. No rent shall be reduced by the Revenue-officer without the consent of the landlord, unless the Revenue-officer is satisfied that the rent is excessive. It shall be necessary for the tenant in each case to prove that the rent is excessive in comparison with the profits of cultivation of the holding. The fact that the rent exceeds by more than three times the assessment determined under sub-section (3) of section 88 of the Berar Land-revenue Code, 1896, or, if the land is not assessed, that the rent exceeds by more than three times a sum equal to the assessment calculated at the survey settlement rates for the class of land comprised in the holding, or that the rent is heavier than the rents paid by permanent tenants for similar land in the neighbourhood, shall not in itself be considered sufficient to show that a rent is excessive, although it may be relevant to the issue.

4. Provided that the cultivating profits of the land have not been materially lowered by diluvion or scour since fixation of the rent, the fact that the rent so fixed has been paid without difficulty from the profits of cultivation for several years shall receive due consideration in determining whether the rent is excessive.

ENHANCEMENT OF RENT UNDER SECTIONS 51, 52 AND 53

5. No enhancement shall be allowed on the ground specified in section 51, clause (c), sub-clause (ii), unless the Local Government has declared by notification that there has been a permanent increase in prices in the taluq or other local area in which the holding, the rent of which the landlord desires to enhance, is situated. Such notification shall specify the maximum percentage enhancement of rent justified on account of the rise in prices.

6. The notice to be given to the Tahsildar under section 52 shall be in Form A appended to these rules.

7. On receipt of such a notice the Tahsildar shall verify that in fact the tenant has agreed to the enhancement of rent entered in the notice.

8. If the Tahsildar is satisfied that the enhancement of rent has been agreed to by the tenant, he shall direct the patwari of the village in which the holding is situated to enter the enhanced figure in the record of rights prepared under Chapter VIII-A of the Berar Land-revenue Code, 1896.

9. (a) Every application by a landlord for the enhancement of rent payable by a tenant shall be made in writing to a Revenue-officer and shall contain the following details:—

(i) the name of tenant or tenants whose rent he desires to enhance, with father's name, caste and residence;

(ii) the survey numbers, area and present rent of the holdings, the rent of which is to be enhanced;

(iii) enhanced rents which the landlord proposes to demand;

(iv) the grounds on which the proposed enhancement is claimed.

(b) The application shall be accompanied by a certified copy of the entry in the record-of-rights relating to the holding.

10. The notice of enhancement required by section 53 shall be in Form B appended to these rules.

11. Application for service of notice of enhancement of rent shall be made to the Tahsildar of the taluq within which the land is situated. A process-fee of eight annas to be paid by the landlord will be charged for the service of each such notice.

FORM A

Notice of enhancement of rent under section 52 of the Berar Alienated Villages Tenancy Law, 1921.

To the Tahsildar _____, taluq _____, district _____.

In accordance with section 52 of the Berar Alienated Villages Tenancy Law, notice is hereby given that the rent of the holding mentioned below has been enhanced by agreement between me and the tenant:—

- (1) Name of village _____.
- (2) Number of patwari circle _____.
- (3) Survey number or numbers of fields included in the holding _____.
- (4) Present rent _____.
- (5) Enhanced rent _____.
- (6) Date from which enhancement shall take effect _____.
- (7) Signature of tenant in token of agreement to enhancement.

Dated the _____ 193 _____.

Signature of landlord.

FORM B

Notice to be served by a landlord upon a tenant of enhancement of rent under section 53 of the Berar Alienated Villages Tenancy Law, 1921.

To _____, son of _____, caste _____,
tenant _____, residing at village _____ in the taluq of the
district _____ (through the _____,
Tahsildar of _____).

I do hereby give you notice that I intend to enhance under section 51 (b) of the Berar Alienated Villages Tenancy Law, the rent of the holding hereinafter specified which you now hold as permanent tenant under me _____ from Rs. _____ to Rs. _____ per annum from the commencement of the next agricultural year. The enhanced rent does not exceed double your present rent or three times the revenue assessment determined for your holding and you are therefore required to pay rent at the enhanced rate from _____.

Procedure for enhancement of rent on application of landlord.

54. (1) Application may be made under clause (c) of section 51 in respect of any number of tenants collectively :

Provided that all such tenants are tenants of the same landlord and holding land in the same village.

(2) The orders passed on such application shall specify the extent to which each of the tenants is affected thereby.

(3) No order shall be passed on an application for the enhancement of rent, unless the Revenue-officer is satisfied that the tenant has had an opportunity of appearing and being heard.

Conditions of enhancement of rent under section 51, clauses (b) and (c).

55. In the cases specified in clauses (b) and (c) of section 51, the rent payable by any permanent tenant shall not, except as provided in section 19, be enhanced within ten years of such rent having been fixed at a settlement or under any provision of this Law other than section 19.

Orders of enhancement of rent to be consistent with contracts made after current settlement. Grounds for ejection.

56. No order shall be made for the enhancement of the rent payable by any permanent tenant which is inconsistent with any contract made after the completion of the current settlement and still in force, such contract being consistent with this Law.

57. Notwithstanding any contract to the contrary, a permanent tenant shall not be ejected from his holding by his landlord as such, except—

(a) as provided in section 69 for arrears of rent :
or

(b) in execution of a decree of a civil court passed on the ground of his having diverted the land to non-agricultural purposes, or being chargeable, with some other act or omission which, by custom not inconsistent with this Law or with any other enactment for the time being in force, renders him liable to be ejected.

CHAPTER V.—OF SUB-TENANTS

Definition of "sub-tenant".

58. A person who holds land from a tenant of such land is a sub-tenant thereof.

Tenure according to agreement.

59. Except as otherwise provided for in this Law, a sub-tenant shall hold on such terms as may be agreed upon between him and his landlord :

Provided that, notwithstanding any contract to the contrary, a lease granted to a sub-tenant by a permanent tenant shall not be valid for a period exceeding one year.

CHAPTER VI. - ORDINARY TENANTS

60. (1) Every tenant who is not an ante-alienation tenant, a permanent tenant or a sub-tenant is an ordinary tenant. Definition of "ordinary tenant."

(2) Except as otherwise provided for in this Law, an ordinary tenant shall hold his land on such terms as may be agreed upon in writing in the form of a lease and counterpart between him and his landlord. Tenure according to agreement.

(3) On the expiry of the period agreed upon under sub-section (2), the tenancy shall cease.

(4) If in any case no such agreement in writing exists, the tenant shall be held to be an annual tenant, and shall be liable to pay rent to his landlord at a rate corresponding to that paid by permanent tenants for their land in the same village.

61. (1) An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one agricultural year to the end of the next. Termination of annual tenancy.

(2) An annual tenancy shall in the absence of any contract to the contrary, require for its termination a notice in writing, in such form as may be prescribed by rules made under section 82, given by the landlord to the tenant, or by the tenant to the landlord, at least three months before the end of the agricultural year, or the year of tenancy at the end of which it is intimated that the tenancy is to cease.

Specification of holding.

Name of village	Survey No. and sub-division No. (if any) of field	Area	

Dated the.....193 . (Sd.).....

Landlord.

CHAPTER VII.—JURISDICTION AND PROCEDURE

62. The Local Government may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall be registered in such special registers as it may prescribe by rules made under section 82, and not in the register of suits kept under the provisions of the Code of Civil Procedure, 1908.

Registration of suits between landlords and tenants in special registers.

V of 1908

In exercise of the powers conferred by section 82, sub-section (2), clause (k), and with reference to section 62 of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the following rule for the registration of suits between landlords and tenants :—

Notfn. No. 892-376-XII, d. 8-4-22.

All suits between landlords and tenants shall be registered in a separate register to be called the register of tenancy suits (Form No. 14) prescribed in rule 2 in Order No. IV of the First Schedule in the Code of Civil Procedure, 1908 (Act V of 1908); as applied to Berar for the registration of civil suits.

63. (1) In suits between landlords and tenants as such, the plaint shall, in addition to the matters mentioned in rule 1 of Order VII of the First Schedule to the Code of Civil Procedure, 1908 specify the area of the land to which the suit relates, and if the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

Plaint in such suits.

V of 1908

(2) If the land to which the suit relates comprises parts of numbered fields, or has not been divided into numbered fields, an accurate plan of the land and its boundaries shall be attached to the plaint.

4. (1) If a tenant, against whom an order of ejectment has been passed, appears at any time before the warrant of ejectment is executed and pays into court the amount due under the decree passed against him, the Revenue-officer shall cancel the order of ejectment and thereupon the warrant of ejectment shall be deemed to have been withdrawn.

Notfn. No.
1728-331-XII,
d. 4-5-37.

(2) Any process-server serving a warrant of ejectment shall, on receiving reasonable proof that the amount due in respect of the warrant has been paid into court, suspend the execution of the warrant and return it to the revenue officer concerned with his endorsement stating in brief the nature of proof received by him.

Form of notice of ejectment in execution of a decree for arrears of rent.

To _____, son of _____,
caste _____, resident of _____.

Whereas I have received for execution a Civil Court decree, dated the _____, in favour of _____ son of _____, caste _____, for arrears of rent respecting the holding described in the schedule attached amounting to Rs. _____

you are hereby informed that unless the sum decreed is paid to me at _____ within one month from the date of the service of this notice, you will be ejected from the holding aforesaid :—

Schedule.

Name of village	Right in which holding is held	Survey No. and sub-division No. (if any) and area of the fields constituting the holding



Dated the

193

Revenue-officer.

In exercise of the powers conferred by section 82, sub-section (1), and sub-section (2), clause (m), of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to direct that a Revenue-officer receiving from a Civil Court an order of ejectment of a permanent tenant or ordinary tenant or sub-tenant in the accompanying form, in original, shall be deemed to have received the decree within the meaning of section 69, sub-section (2), of the said Law :—

Notfn. No.
1575-1115-XI
d. 20-6-22.

Order of ejectment in cases transferred for execution under section 69 of the Berar Alienated Villages Tenancy Law, 1921.

Transferred from the Court of

Transferred to

Suit No. of date of decree

Name of decree-holder
(father's name, residence, etc.). {

Name of judgment-debtor
(father's name, residence, etc.). {

Amount decreed (including
costs in the original suit and
execution cases). {

Amount now to be recovered

Description of the holding from which the judgment-debtor
is to be ejected, vide description given on the reverse.

ORDER OF THE COURT

Specimen--

Decree-holder (present in person) (present by _____)

Judgment-debtor (absent) (present in person) (present
by _____).

Application for execution presented after expiry of the time
prescribed by section 68 of the Berar Alienated Villages Tenancy
Law.

Judgment-debtor cannot satisfy the decree. Hence this
order of ejectment is made and is hereby transferred to the
Revenue-officer above specified.



Signature of Judge.

Dated this 19 ..

(3) If a landlord elects under sub-section (1) to allow a tenant to retain possession of any land for the purpose specified therein, the tenant shall pay to the landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

In suits for arrears all claims between landlords and tenants to be determined.

73. In all suits for arrears of rent the Court shall inquire into and determine all claims under this Law by the landlord against the tenant as such, or by the tenant against the landlord as such in respect of the holding for which arrears of rent are claimed.

Reinstatement of tenant illegally ejected.

74. (1) Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with this Law, or whose holding has been treated as abandoned under section 37, may, on application to a Revenue-officer made within one year from the date of his ejection, or from the first day of the agricultural year next after the entry by the landlord, as the case may be, be reinstated in possession of such holding or portion thereof:

Provided that—

(i) no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected, to establish his title to his holding and to recover possession thereof by means of a suit; and

(ii) possession of a holding or any portion thereof shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant of 1877 dispossessed thereof.

(2) If a tenant applies for reinstatement under sub-section (1), and the landlord proves that he was entitled to enter on the holding under section 37, it shall be presumed, in the absence of evidence to the contrary, that the tenant had abandoned the holding.

(3) If a tenant rebuts such presumption by proving that he had in fact no intention of abandoning his holding, he shall be entitled to reinstatement on such terms as the Revenue-officer thinks fit.

75. (1) Any tenant who has been ejected on or after the first day of January 1916, from his holding or any portion thereof, under decree or order of a Civil

Reinstatement of tenant ejected on or after 1st January 1916.

Court, and who, if he had not been so ejected, would be deemed under section 47 to be a permanent tenant thereof, may apply to a Revenue-officer, within one year from the commencement of this Law, to be reinstated in possession of such holding or portion thereof.

(2) The Revenue-officer shall fix the rent of the holding or portion thereof, and shall reinstate the tenant, on condition of his paying to the landlord, in accordance with the provisions of sub-sections (3) and (4), a premium equal to two-and-a-half times the rent so fixed.

(3) If the rent payable by the tenant immediately prior to the proceedings which resulted in his ejectment was less than the sum described in the proviso to sub-section (2) of section 50, the rent fixed by the Revenue-officer shall not be greater than that sum; and if the rent payable by the tenant immediately prior to the proceedings which resulted in his ejectment was greater than the sum described in the proviso to sub-section (2) of section 50, the rent fixed by the Revenue-officer shall not be less than that sum.

(3) If a landlord elects under sub-section (1) to allow a tenant to retain possession of any land for the purpose specified therein, the tenant shall pay to the landlord, for the use and occupation of such land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

In suits for arrears all claims between landlords and tenants to be determined.

73. In all suits for arrears of rent the Court shall inquire into and determine all claims under this Law by the landlord against the tenant as such, or by the tenant against the landlord as such in respect of the holding for which arrears of rent are claimed.

Reinstatement of tenant illegally ejected.

74. (1) Any tenant who has been ejected from his holding or from any portion thereof otherwise than in accordance with this Law, or whose holding has been treated as abandoned under section 37, may, on application to a Revenue-officer made within one year from the date of his ejectment, or from the first day of the agricultural year next after the entry by the landlord, as the case may be, be reinstated in possession of such holding or portion thereof :

Provided that—

(i) no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected, to establish his title to his holding and to recover possession thereof by means of a suit ; and

(ii) possession of a holding or any portion thereof shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant of 1
dispossessed thereof.

(2) If a tenant applies for reinstatement under sub-section (1), and the landlord proves that he was entitled to enter on the holding under section 37, it shall be presumed, in the absence of evidence to the contrary, that the tenant had abandoned the holding.

(3) If a tenant rebuts such presumption by proving that he had in fact no intention of abandoning his holding, he shall be entitled to reinstatement on such terms as the Revenue-officer thinks fit.

Reinstatement of tenant ejected on or after 1st January 1916.

75. (1) Any tenant who has been ejected on or after the first day of January 1916, from his holding or any portion thereof, under decree or order of a Civil

Court, and who, if he had not been so ejected, would be deemed under section 47 to be a permanent tenant thereof, may apply to a Revenue-officer, within one year from the commencement of this Law, to be reinstated in possession of such holding or portion thereof.

(2) The Revenue-officer shall fix the rent of the holding or portion thereof, and shall reinstate the tenant, on condition of his paying to the landlord, in accordance with the provisions of sub-sections (3) and (4), a premium equal to two-and-a-half times the rent so fixed.

(3) If the rent payable by the tenant immediately prior to the proceedings which resulted in his ejectment was less than the sum described in the proviso to sub-section (2) of section 50, the rent fixed by the Revenue-officer shall not be greater than that sum; and if the rent payable by the tenant immediately prior to the proceedings which resulted in his ejectment was greater than the sum described in the proviso to sub-section (2) of section 50, the rent fixed by the Revenue-officer shall not be less than that sum.

(4) The premium shall be payable in three equal instalments, the first to be deposited in Court before the tenant is reinstated, and the remaining two to be paid to the landlord at intervals of one year from the date of the deposit of the first instalment:

Provided that, if the tenant fails to deposit the first instalment in Court within two months of the date of the Revenue-officer's order under sub-section (2), the Revenue-officer shall cancel such order, and the tenant's rights shall be deemed to have ceased.

(5) If the tenant fails to pay either of the two latter instalments when they fall due, the landlord may, within one year from the date of such default, apply to the Revenue-officer to eject the tenant, and the Revenue-officer shall eject the tenant. Thereupon, the tenant's rights shall be deemed to have ceased from the date of his ejectment, and any instalment or portion of premium which he may have paid shall not be recoverable from the landlord.

In exercise of the powers conferred by section 82, sub-section (2), clause (m), of the Berar Alienated Villages Tenancy Law, 1921, the Local Government is pleased to make the

Nottm.
No. 167-
715-XII,
d. 23-4-23.

passed by that officer under the said Code, and from any such decision or order passed by a Settlement Officer, an appeal shall lie to the Commissioner.

Jurisdiction
of Civil
Courts in
suits bet-
ween land-
lords and
tenants.

80. Except as provided in section 78, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such.

Recovery
of fines and
penalties.

81. Any fine or penalty under this Law shall be recoverable as if it were an arrear of land revenue.

Power to
make rules.

82. (1) The Local Government may, from time to time, make rules for the purpose of carrying into effect the provisions of this Law, and may attach to the breach of any such rule a penalty which may extend to two hundred rupees.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the instalments in which, and the dates on which, rents shall fall due under section 7;
- (b) the regulation of the appointment under section 8 of one of several landlords of a holding as the person to receive the rent thereof;
- (c) the prescription of fees under section 10;
- (d) the prescription of the form of, and the particulars to be contained in, a receipt for rent under section 17;
- (e) the regulation of matters connected with improvements under section 31;
- (f) the prescription of the manner of publication of notice under the proviso to sub-section (1) of section 37;
- (g) the regulation of the acquisition of a tenant's land by the landlord under section 39;
- (h) the regulation of the procedure of Revenue-officers in dealing with applications under section 49;
- (i) the regulation of the principles on which, and the procedure by which, rent shall be fixed or reduced under section 50, and the regulation of the enhancement of rent under sections 51, 52 and 53;

- (j) the prescription of the form of notice under sub-section (2) of section 61 ;
- (k) the prescription of registers for registering suits between landlords and tenants under section 62 ;
- (l) the guidance of Revenue-officers executing decrees under section 69 ; and
- (m) generally for the guidance of Revenue-officers and all other persons in all proceedings under this Law.

(3) The power to make rules under clauses (b), (d), (e), (g), (h), (i), (j) and (l) of sub-section (2) shall be subject to the condition of the rules being made after previous publication.

(4) No rule made under this Law shall take effect until it has been published in the local official Gazette.

83. References in this Law or in the rules made thereunder to enactments of Indian Legislature shall be deemed to refer to such enactments as applied to Berar.

References
to British
Indian enactments
how to be
construed

INAM RULES

Rules for the settlement of jagir and inam claims, whether in money or land, both personal and service, and for the maintenance of religious and charitable institutions in Berar

Rule I

Validity of
grants how
established.

Land which is proved to have been held as inam, either under a fixed quit-rent or rent free for a period of 40 years before the cession, shall be treated as inam possessed under a valid title.

2. All grants of land or money supported by sanads granted by Sovereign Powers, such as the Kings of Delhi, or Rulers of Satara, Scindia, Nagpur, and by the Nizam, as also the sanads of the Nizam's Ministers from time to time, with the exception of sanads granted by Maharajah Chundoo Lall from Fasli 1250 (1840) to 1252 (1842) inclusive, and of Raja Ram Baksh* and Siraj-ul-Mulk† during their second ministries specially disallowed, shall be held to be valid when duly authenticated; but grants of land or money by revenue authorities of any degree shall, as a rule, be considered invalid, and such grants shall only be allowed under rules in respect of possession as below specified.

3. If inams are held under sanad or other title-deed, the same to be examined. In the absence of such proof, entries in the village accounts and the oral testimony on oath or solemn affirmation of the village authorities and old resident inhabitants should be accepted as proof. Uninterrupted possession must be proved, or the intermediate resumption of the inam must be proved to have been unauthorized, or that the inam was subsequently released under due authority.

Rule II

Classification
of inams.

After the validity of the inam has been proved, each case will be disposed of as hereinafter explained, according as it belongs to one of the following classes:—

Class 1st.—Personal jagirs.

Class 2nd.—Grants or endowments to religious or charitable institutions, and for service therein.

Class 3rd.—Personal or subsistence grants.

*13th September 1849 to 7th October 1850.

†29th June 1851 to 26th May 1853.

Class 4th.—Grants by former Governments for service—

First.—As pargana service grants, whether by money or land, whether now rendered or partially rendered or discontinued.

Second.—As village service grants, whether in money or land, for service now performed in the revenue or police or discontinued.

Class 5th.—Inams of *huqs* enjoyed by artisans and others for services rendered to the village communities, such as carpenters, blacksmiths, barbars, priests, dthers, etc.

Rule III

Personal jagirs to be continued, subject to a legacy duty or succession fee, graduated on a scale according to the degree of relationship of the heir as follows :—

Conditions on which personal jagirs are to be held.

Widows, lineal heirs, or undivided brothers—2 per centon the real value of the property estimated at 10 years' annual rental.

Heirs by adoption—3 per cent.

Collateral heirs of one remove—5 per cent.

Collateral heirs two removes—8 per cent.

And further degrees of relationship disallowed except under special orders.

Rule IV

If the inam was given for religious or charitable objects, such as for the support of temples, mosques, colleges, choultries, or other public buildings or institutions, or for service therein, whether held in the names of the institutions or of the persons rendering the service, it will be continued to the present holders and their successors, so long as the buildings or institutions are maintained in an efficient state, and the service continued to be performed according to the conditions of the grant.

Religious charitable grants and endowment

2. Inams, granted for the construction and repair of tanks, channels, drinking reservoirs, etc., will not be interfered with so long as the terms of the grant are fulfilled, and the works are kept in good order, but on failure of conditions are liable to resumption.

Rule V

ersonal or
ubsistence
rant.

If the inam is a personal or subsistence grant, it will be confirmed to the holder according to its actual tenure, and the terms upon which an inam liable to quit-rent, or terminable, may be converted into a freehold and made perpetual, as stated below.

2. If the present incumbent is a descendant of the original grantee, the inam will be continued to him hereditarily, subject to the following conditions:—

**First.*—Successions limited to direct lineal heirs and undivided brothers.

Second.—The inam escheats to Government on failure of such heirs.

Third.—Future alienation of the inam is prohibited.

Fourth.—The right of adoption to an inam is not recognized.

3. But an option will be given to the inamdar to convert this restricted tenure into a freehold, with the full powers of alienation by gift, sale, adoption, or otherwise, by consenting to the payment of an annual quit-rent, calculated according to the following rates:—

First.—If the inamdar is a youth, with reasonable prospect of having lineal heirs, an annual quit-rent, amounting to one-eighth of the estimated assessment of the land, will be considered a sufficient compromise for the right of reversion possessed by Government.

Second.—If the inamdar have no lineal heirs, and from his advanced age no heirs could reasonably be expected but if nevertheless he has terminable heirs, such as a wife without issue or a widowed daughter without issue, in such case the quit-rent shall be equal to one-fourth of the estimated assessment.

**I am directed to say that Mr. Cordery understands the terms "lineal heir in inam rule V to include daughters and daughters' issue".*

2. If it did not include daughter, there would be no reason for the different price paid under clause 3 for enfranchising the inam in the second and third cases, that is, when the inamdar had or had not a daughter to succeed him: and if it did not include daughters' issue, there would be no reason for instancing a "widowed daughter without issue" as a terminal heir in the second case under clause 3 (Secretary for Berar No. 1833, dated Hyderabad, the 23rd July 1884).

NOTE—The term "direct lineal heirs" in paragraph 2 below rule V refers the heirs of the original grantee and not of the last holder.

Third.—If the inamdar be not possessed of heirs of any kind, and from his age lineal heirs cannot be expected, the quit-rent of one-half of the assessment will be demanded.

4. But the above rates of compromise shall only apply to an immediate settlement and it will be optional with Government to accept of any future offer on a similar basis.

5. If a present incumbent is not a descendant of the original grantee, but either in his own person, or in succession to others acquired the inam fairly by adoption, or in alienation by gift, purchase, or otherwise, his claim being admitted, he will be allowed the benefits of clause 2, rule V, but without the option of refusal; and in commutation of the rights of Government, a quit-rent will be imposed on the inam varying from one-eighth to one-half of the estimated assessment of the land according to his position in respect of heirs, as laid down in clause 3 of that rule.

6. As the rates on land have not been positively fixed, it will be competent for the Inam Commissioner, in communication with the Deputy Commissioner of the district, to fix a moderate rate on the land whether wet or dry, which shall bear a fair proportion to the rate assessed on the Government land of the same village or district.

7. After the amount of an annual quit-rent has been once fixed for the enfranchisement of each individual inam, it will be open to the holder to redeem it outright by the payment at once, or at any future time, of a single fixed sum equal to 20 years' purchase of the quit-rent.

8. The quit-rent to be imposed under these rules, being in exchange for extended rights, will be exclusive of, and in addition to, any actual cess on such land already payable to Government, but the quit-rent will be calculated on the estimated assessment after deducting the cess previously payable.

9. Inams heretofore held on quit-rent or other cess will be redeemable by 20 years' purchase of the new and old rates.

10. Inams granted by subordinate revenue authority without the sanction of Government, and which have not acquired the prescriptive right of uninterrupted possession for 40 years, shall be disposed of as follows :—

First.—If the inam was founded on fraud it will be resumed and become liable to full assessment. But if the present incumbent was not a party to the fraud, and has had long possession, though within the prescribed term, he shall be allowed to retain the inam, liable to an assessment equal to from one-half to two-thirds of the estimated rate.

Second.—It will rest with the Inam Commissioner, or Settlement Officer, or other investigating authority, to determine what is fraudulent possession.

Rule VI

Service grants
how to be
limited, and
excess dis-
posed of.

Grants by former Governments for services wholly or partially discontinued, either in the Military Revenue or Police Departments, shall be disposed of as follows.

2. Inams granted in lieu of lands or money stipends, commonly called *huqs* and *russums* of offices, such as Deshmukh, Deshpandia, and others, the service of which has either been dispensed with or otherwise discontinued, shall be disposed of according to clause 2 of rule V, if they are hereditary in their terms, either by express declaration of Government or by recognized usage. Nothing in this rule shall be deemed to apply to cash allowances known as *russums* or *lawazamas* granted to Deshmukhs and Deshpandias in lieu of emoluments previously payable to them.

3. The maximum value of such grants, including every perquisite or profit, whether of land or money, or in kind, shall be limited to 5 per cent on the gross land revenue for both Deshmukh and Deshpandia inclusive, and in such proportion as relates to the two classes—Deshmukhs and Deshpandias—as may have heretofore been enjoyed by each class respectively. But inasmuch as in many instances the service grants to these classes are not equal to 5 per cent, the Inam Commissioner, or Settlement Officer, has no power to increase the existing grants enjoyed by these parties.

2. But service grants are not liable to be alienated by purchase or otherwise.

Rule XV

Title-deeds to be furnished on validity of inams being established—size of *bigha* to be regulated hereafter.

On the validity of an inam being established by inquiry in accordance with the foregoing rules, a title-deed will be at once furnished to the inamdar by the Inam Commissioner or Settlement Officer, acknowledging his title to the inam on its present tenure and specifying the terms upon which this tenure may be converted into as free-hold. Similar title-deeds should also be issued in cases of money grants continued to claimants.

2. As the size of the *bigha*, as entered to claimants, understood in old village papers varies in different parts of the country, a rule of measurement for the conversion of the *bigha* into an acre will be furnished to each district after due inquiry.

Rule XVI

Yeomeahs of or money pensions how to be dealt with.

Yeomeahs or pensions in perpetuity as a principle should be disallowed; but inasmuch as they have been under certain circumstances admitted by His Highness the Nizam's Government, it is necessary to continue them in cases where they may be supported by valid sanads as in clause 2, rule I, and strictly within the conditions with the sanad. It is recommended, however, that whenever practicable, money pensions shall be commuted into land inams under the rules hereinbefore specified for inams.

Rule XVII

Money grants and endowments for public buildings when to be continued, and how may be commuted

Money grants for deostans, *teevars*, *durgahs*, *coruses*, *musjids*, village priests, etc., are to be continued if they are properly applied, but to be carefully scrutinized, and all abuses disallowed. These grants also, if practicable, are to be commuted into land grants, and the Government is willing to commute such grants at an advantage to the grantee of 50 per cent in land above the money grant.

Rule XVIII

In what cases money grants without sanads are to be admitted.

Money grants for personal subsistence not supported by sanads or not granted in perpetuity, shall in all cases cease with the death of present incumbent. They may be continued for the present under the following rules:—

First.—Such claims as were included in the *irsal* list of the Native Government, and payable from the Government Treasury, shall be confirmed for life.

Second.—All other charitable allowances that are proved to have been enjoyed for upwards of 24 years before the cession are to be continued during the life-time of the incumbent, and all others resumed.

Rule XIX

But an exception may be made in cases of extreme Exceptions.
destitution, bodily infirmity, old age, or other consideration, where the sudden withdrawal of the Government pension might produce starvation.

Rule XX

As laid down in Government letter No. 4255, Nature of claims to be investigated by the Inam Commissioner and Deputy Commissioners, respectively.
dated the 5th November 1858, the Inam Commissioner shall inquire into claims to integral villages or estates and detached lands included in the same grant,—and to large money grants whether the grant had been made for the support of religious or charitable endowments, for service, or other purpose.

2. All petty grants for lands lying within the circle of a village or if in money for purposes connected with the management of village such as money *ressums* to village servants or even to pargana officers, as well as all other petty money claims for subsistence or religious purposes, in the shape of assignments on the customs, or on the revenue of any particular village or on the treasury, shall be inquired into by the Deputy Commissioner. He will be at liberty to employ an Assistant or Extra-Assistant as he thinks fit on the primary inquiry, which should be as brief and summary as possible, but he will reserve the decision upon the claims for his own consideration.

Rule XXI

In regard to grants other than for service, the Scope of Resident's and Commissioner's authority in the disposal of claims.
decisions of the Commissioner and the Resident will be final as follows: those of the former in respect of all holdings not exceeding 10 acres, and those of the latter in respect of those not exceeding 50 acres, provided that the tenure is decided to be exempt from revenue only for the life of the incumbent. If lands to any extent be released in perpetuity, or for more than one generation, the cases must be reported as briefly as possible to the Government of India: and so also, in order to meet the requirements of the Account Department, must, all cases in which money grants may be continued for religious or charitable purposes.

2. In respect to service grants, the decisions of the Commissioner and the Resident when concurrent respecting the lands held free by the pargana and the village officers as remuneration for service, and also respecting money allowances received by them on the same account, shall be considered final, provided that the aggregate receipts both from land and money do not exceed the prescribed percentage on the gross revenue of the village or pargana to which they belong, *viz.*, *Deshmukhs and deshbandias 5 per cent, patels and patwaris 6 per cent, village watchmen not exceeding 2 per cent.

3. In such cases, there is no occasion for each claim being reported in detail to the Government of India, the only thing required being a general report for each district, showing the number of pargana and village officers in each taluq, the revenue of the taluq, the extent of land with value thereof, and the amount of money enjoyed by these officers, respectively.

*The allowances payable to Deshmukhs and Deshpandias have been fixed once for all, *vide* letter No. 1432-P, dated the 4th July 1874, from the Secretary to the Government of India, Foreign Department (Political), to the Resident at Hyderabad, and the amoluments payable to the village officers are given in the schedule attached to the rule framed under the Berar Patels and Patwaris Law, 1900.

THE AGRICULTURISTS' LOANS ACT, XII OF 1884,
AS APPLIED TO BERAR

C O N T E N T S

Preamble.

Sections.

1. Short title and commencement.
2. * * * *
3. * * * *
4. Power for Local Governments to make rules.
5. Recovery of loans.

THE AGRICULTURISTS' LOANS ACT XII OF 1884

(CENTRAL PROVINCES ACT NO. XII OF 1884, PASSED BY
THE GOVERNOR GENERAL OF INDIA IN COUNCIL AS
APPLIED TO BERAR)

(Received the assent of the Governor General on the
24th July 1884.)

Whereas it is expedient to amend the Northern India Taccavi Act, 1879, and provide for its extension to any part of British India; it is hereby enacted as follows :—

1. (1) This Act may be called the Agriculturists' Loans Act, 1884, and

Short title.

(2) It shall come into force on the first day of August 1884.

Commencement

2. *

3. *

4. (1) The Provincial Government* (or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the Provincial Government) may, from time to time, make rules as to the loans to be made to owners and occupiers of arable land for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

X of 1883.

(2) All such rules shall be published in the official Gazette.

RULES MADE UNDER SECTION 4 (i) OF THE AGRICULTURISTS' LOANS ACT, 1884

A.—The manner of making applications for loans.

Applications for loans shall be in appended form A and they may be made to any revenue officer. Printed copies of this form shall be supplied free of cost at all tahsil offices, and shall be distributed on tour by revenue inspectors, whenever they are required. In the case of oral applications the form shall be filled in for the applicant by a revenue official.

NOTE.—Such applications are exempted from court-fees duty by Government of India Notification No. 465-A (2), dated the 10th September 1889.

* These words were substituted for the words "subject to the control of the Governor General in Council" by Act IV of 1914.

Notfn. No. 137,
d. 17-5-09, as
amended by
Notfns. No. 250-
705-H-XII, d.
6-7-21, No. 67-
55-XII, d.
10-1-24, No.
2036-XII, d.
3-8-25, No.
1807-43-XII,
d. 23-3-27, No.
3307-1945-XII,
d. 16-10-30, and
Notfn. No.
1128-633-A-
XII d. 7-4-34.

B.—The power of sanction.

2. Loans may be granted only by officers to whom an allotment of funds for the purpose has been made by competent authority and only within the limits of that allotment.

3. Subject to the provisions of rule 2, loans may be made by Deputy Commissioners, Assistant and Extra-Assistant Commissioners and Tahsildars, or such other officers below the rank of Tahsildars, who may specially be empowered to perform the functions of Tahsildars under this rule—

(1) No loan exceeding Rs. 500 in amount may be granted by an Assistant or Extra-Assistant Commissioner.

(2) No loan exceeding Rs. 250 in amount may be granted by a Tahsildar.

NOTE.—All Naib-Tahsildars who have been invested with powers of a Tahsildar under the Berar Land Revenue Code, 1928, are empowered to perform the functions of a Tahsildar under the Agriculturists Loans Act. (Vide Notification No. 952-XII, dated the 6th March 1929.)

4. The Commissioner shall, out of the allotment of funds for the purposes of granting loans under the Act in his division, apportion a definite amount to each district. Deputy Commissioners will make allotments to such Assistant Commissioners, Extra-Assistant Commissioners and Tahsildars as they consider it desirable to employ in granting loans, reporting the names of the officers to whom allotments are made, and the amount allotted to each, to the Commissioner. They may also limit the amount of individual loans to be granted by the officers to whom allotments are made, which shall in no case exceed those specified in provisos (1) and (2) of rule 3.

NOTE.—Assistant Commissioners and Extra-Assistant Commissioners employed in this work should ordinarily be in revenue charge of a sub-division of the district

C.—The enquiry into applications and the method of granting loans.

5. With a view to facilitate the prompt distribution of loans under the Act, Deputy Commissioners and any other Revenue Officers authorized by them may draw advances from the treasury in lump sums on abstract bills in the manner prescribed in the note appended to article 131 of the Civil Account Code. These will ordinarily be required only during the touring season, or where arrangements have been made to pay out a number of loans on fixed dates at district or tahsil headquarters. Individual loans sanctioned from time to time during the off season can be drawn on separate bills.

6. Whenever non-official agency is available, it may be employed to aid in making inquiries and disbursing loans.

D.—Security.

7. The security for the payment of loans will usually be the borrower's interest, whether as a superior holder, or occupant or tenant in land, but this interest need not be formally hypothecated.

8. When the amount of the loan does not exceed three-quarters of the borrower's interest in the value of the land held by the borrower, no collateral security need be required.

9. When the borrower has no interest in land or when his interest in land is less than four-thirds of the amount of the loan; he shall provide a surety and security shall be taken from him, which may either be personal or may consist of a transferable interest in land. In the latter case the land must be mortgaged in the appended form C and the mortgage deed attested by two witnesses.

10. When an application is received from the members of a village community or from a group of cultivators, their joint personal security may ordinarily be accepted as sufficient to ensure the repayment of a loan, provided that the amount advanced on such security shall not exceed—

(a) in the case of superior holders or occupants, five times the annual revenue, and

(b) in the case of tenants, five times the annual rent assessed on the land held by the applicants.

When loans are made under this rule, the order granting the loan should be in the appended form D.

NOTE.—The financial limits laid down in rules 3 and 4 do not apply to the total of the loans made on joint responsibility, but only to the individual amount by which this total is made up.

10-A. Copies of all orders granting loans in which immovable property has been hypothecated and of mortgage deeds in form C shall be sent to the registering officer as required by section 89 of the Indian Registration Act, 1908. All copies shall be certified as true copies by the officer granting the loan

E.—The rate of interest at which, and the conditions under which, loans may be granted.

11. Interest shall be charged on loans made under these rules at the rate of one anna three pies per rupee per annum: provided that if an instalment of principal or interest be not paid on the date fixed, it shall be at the discretion of the Deputy Commissioner of the district to charge interest upon such instalments from the date of default at the rate of two annas six pies per rupee per annum. Interest on every loan shall run from the date on which the loan is made and shall be calculated to the nearest anna in the case of loans granted after the 1st April 1934.

12. If the loan is sanctioned under these rules, it is the duty of the sanctioning officer's reader to prepare the order granting the loan in English or Marathi in duplicate in Form B or form D and to obtain on them the signatures of the sanctioning officer and the payee. The original copy of the order will be the authority for the payment of the loan from the treasury or sub-treasury, as the case may be, and will be presented to the Treasury Officer, who after payment will return the same to the Deputy Commissioner for record in the misl. The money may either be drawn by the borrower himself, in which case the original order should be made over to him; or it may be drawn and paid to him in the presence of the officer sanctioning the loan or of some gazetted officer. In both cases the duplicate copy of the order should be made over to the borrower to be

retained by him. When immovable property is taken as security, the mortgage deed in form C shall be filed with the record and no copy of it need be given to the borrower unless he asks for it. Officers while granting loans should comply with the requirements of section 89 of the Registration Act, XVI of 1908.

13. Should there be any doubt as to the application of the loan in the manner specified in the order granting the loan, the Deputy Commissioner shall inquire into the matter, and if he finds that the loan has been misapplied, he may order its recovery with interest in a lump sum.

F.—The repayment of loans.

14. The date of repayment of a loan, or, if the loan is made repayable in instalments, the date of repayment of the first instalment shall coincide with one or other of the dates fixed for the payment of land revenue.

15. The period fixed for the repayment of loans shall not, except for special reasons and with the sanction of the Deputy Commissioner, be longer than five years. Ordinarily loans made for the purchase of seed should be repaid from the crops produced from the seed; and loans made for the purchase of plough-cattle should ordinarily be repaid within three years at most.

G.—Suspension.

16. Suspension of payment of taccavi instalments shall be allowed without hesitation whenever, from causes beyond the control of the borrower, his crops have failed to such an extent as to render the payment of such instalment unduly burdensome to him. If suspension of land revenue has been granted on a large scale in any year over a wide area, the payment of taccavi instalments falling due in the same year from borrowers in such area shall be suspended automatically; provided that if, in the opinion of the Local Government circumstances justify such a course, it may direct that the recovery of taccavi shall not be suspended automatically and that the case of each borrower shall be considered on its merits.

17. Suspensions may be granted by the Deputy Commissioner or under his orders, by other officers who are empowered to grant loans under rule 2, provided that the amount of the loan on account of which the instalment to be suspended is due does not exceed the amount up to which the officer granting the suspension is empowered to sanction loans and provided further that when a general suspension of instalments of loans is considered necessary on account of the particular circumstances of a tract or the character of the season, the sanction of the Commissioner shall be obtained.

H.—Remission.

Notifn, No. 67-
55, d 10-1-24.

18. Commissioners of divisions are authorized to sanction the remission of arrears in the case of any one loan and also a general remission of loans on account of the particular circumstances of a tract or the character of the season.

FORM A

Application.

Name, residence, etc. of applicant.	Amount of loan required.	Nature of security whether personal or otherwise.	Object of the loan.	Situation of the land owned or occupied by applicant.	Applicant's rights in the land.	Proposed dates of repayment.

Applicant's signature.

(REVERSE OF FORM A)

Particulars to be filled in by inspecting officer.

1. Field number and area of land owned or occupied by applicant, and village in which it is situated.

2. Status of applicant, that is, whether superior holder or tenant.

3. Date or dates on which the loan or instalments of it should be received by the applicant.

4. Security—

(1) If an interest of the applicant in immovable property, then the nature and value of that interest, and the extent of pre-existing encumbrances thereon, if any.

(2) When sureties offer personal security, then their number, names, residence, status and means.

(3) Where sureties offer to mortgage immovable property, then their names and the nature and value of the property, and the extent of pre-existing encumbrances thereon, if any. The nature and extent of such encumbrances should be ascertained from the sub-registrar of the circle in which the property is situate. The local knowledge of village officials and circle inspectors should also be utilized.

5. Repayment—

(1) Suitable date for instalment with reference to the circumstances under which the loan is applied for.

(2) Proposed instalments and period for repayment.

6. Recommendations of inspecting officer.

FORM B

Order granting a loan under the Agriculturists' Loans Act, 1884.

1. The sum of Rs. _____ is hereby granted to A, B, son of _____ resident of _____ tahsil _____, as a loan under the Agriculturists' Loans Act, 1884, for the purpose of (*here describe the purpose for which the loan is granted*) subject to the following conditions.

2. The conditions referred to are as follows:—

(a) that the amount of this loan, shall be paid to the aforesaid A. B., on the production of this order at the tahsil of _____

(b) that the amount of this loan with interest chargeable thereon, and costs (if any) incurred in the making thereof, shall be repayable to the person named, and at the place, on the dates, and by the amounts, specified below:—

Name—

Place—

Date—

Principal—

Interest—

Cost (if any)—

Total—

(c) that this loan shall be applied solely to the purpose specified above, and that, if it shall be proved to the satisfaction of the Deputy Commissioner that any part of the loan has been misapplied, the whole amount of the loan shall with such interest as may have become due thereon, as well as costs (if any), be deemed to become due at once;

(d) that if any instalment is not paid on the due date, interest at two annas six pies per rupee per annum may, at the discretion of the Deputy Commissioner, be charged on such instalment from the date of default.

(e) that if any instalment is not paid on the due date, all future instalments shall with such interest as may have become due as well as costs (if any) incurred in making the loan, become due immediately.

Signature of the Deputy Commissioner.

I have received the above sum, and understood and agreed to the aforesaid terms and conditions.

Signature of the person to whom the loan is granted.

NOTE.—No receipt stamp is required in the case of loans under the Agriculturists' Loans Act.

FORM C

Form of mortgage-deed to be taken as security for loans under the Agriculturists' Loans Act, 1884.

Whereas _____ has on _____ received from the Deputy Commissioner of _____ acting on behalf of the Secretary of State for India in Council, an order under the Agriculturists' Loans Act, 1884, in virtue of which he is entitled to receive the aggregate sum of Rs. _____ as a loan from the Secretary of State for India in Council for the purpose of _____ and whereas collateral security for the punctual repayment of the said loan according to the terms of the order, is demanded from the said _____ *I the said _____ or † I the said _____ and we _____ or ‡ we _____ mortgage to the Secretary of State for India in Council, the immovable property mentioned in the schedule below together with all crops now actually growing or which may hereinafter while any money is, owing on this security, be grown upon the said immovable property as a collateral security, and agree that if I fail (or the said _____ fails) duly to apply the said loan or to repay any instalment of the said loan or interest chargeable thereon or costs (if any) incurred in the making thereof, on the date on which it may become due, it shall be lawful for the said Deputy Commissioner of _____, acting on behalf of the mortgagee, the Secretary of State for India in Council, without any further consent on my part or on the part of the said _____ or his legal representative to sell the immovable property and the crops hereinbefore expressed to be mortgaged or any part thereof either together or in parcels and either by public auction or private contract without the intervention of the court which the said Deputy Commissioner shall deem proper and apply the proceeds to the discharge of the liabilities accruing under this mortgage deed including all outstanding instalments with such interest as may be due thereon and costs (if any) incurred in making the loan.

It shall further be lawful for the said Deputy Commissioner to recover all moneys accruing due under this instrument in the same manner as an arrear of the land revenue under the Berar Land Revenue Code.

NOTE.—The copy sent to the registering officer should be certified to be "true copy", and the property mortgaged should be sufficiently described.

*To be used when the borrower alone gives collateral security.

†To be used when the borrower and his surety all give collateral security.

‡To be used when the collateral security is given by sureties only.

FORM D

Order granting loans on joint responsibility under the Agriculturists' Loans Act, 1884.

1. The sum of Rs. _____ (in words) _____ is hereby granted as a loan under the Agriculturists' Loans Act, 1884, for the purpose of _____ to the persons and in the amounts entered in the table on the reverse.

2. The grant is subject to the following conditions:—

(a) That all persons named on the reverse shall be jointly and severally responsible for the total amount of this loan;

(b) that the amount of the loan with interest chargeable thereon as exhibited on the reverse, and costs (if any) incurred in the making thereof, shall be repayable by the persons named and at the sub-treasury _____ on the dates and in accordance with the instalments (if any) specified overleaf;

(c) that this loan shall be applied solely to the purpose specified above, and that if it shall be proved to the satisfaction of the Deputy Commissioner that any part of the loan has not been so applied the whole amount of the loan shall, with such interest as may have become due thereon, as well as costs (if any) be deemed to have at once become due.

(d) that if any instalment is not paid on the due date, compound interest at $\frac{\text{two annas six pice}}{\text{one anna three pice}}$ per rupee per annum shall be payable from the date on which the instalment fell due to the date of payment.

Signature of Officer granting loan."

Serial No.	Name of recipient with father's name and place of residence	Village with settlement number and taluq	Total amount advanced to each recipient	Date or dates of repayment	Amount of principal to be repaid on each date	Rate of interest	Signature of recipient in token of having received the sum and understood and agreed to the term and conditions recited overleaf
1	2	3	4	5	6	7	8

NOTE.—No receipt stamp is required in the case of loans under the Agriculturists' Loans' Act.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

Recovery of
loans.

6. * * * *

Liability of
joint
borrowers
as among
themselves.

THE LAND IMPROVEMENT LOANS ACT, XIX OF
1883, AS APPLIED TO BERAR

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4. Purposes for which loans may be granted under
this Act.
5. Mode of dealing with applications for loans.
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7. Recovery of loans.
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points.
9. Liability of joint borrowers as among them-
selves.
10. Power to make rules.
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THE LAND IMPROVEMENT LOANS ACT, XIX OF 1883, AS APPLIED TO BERAR

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

*(Received the assent of the Governor-General on the
12th October 1883.)*

An Act to consolidate and amend the Law relating to loans of money by the Government for agricultural improvements (a), as modified up to the 24th February 1914.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; it is hereby enacted as follows :—

1. (1) This Act may be called the Land Improvement Loans Act, 1883. Short title.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government may, by notification in the local official Gazette, appoint in this behalf. Local extent
Commence-
ment.

NOTE.—The Act came into force in the Central Provinces by Notification No. 602 dated the 6th February 1899.

2. (1) The Land Improvement Act, 1871, and Act Acts XXI
of 1876 and
XXVI of 1871. XXVI of
1871. XXI of 1876 (an Act to amend the Land Improvement Act, 1871) shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed.

(2) When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act. Repealed.

3. In this Act “Collector” means the Collector of land revenue of a district, or the Deputy Commissioner, or any officer empowered by the local Government by name or by virtue of his office to discharge the functions of a Collector under this Act. “Collector”
defined.

4. (1) Subject to such rules as may be made under section 10, loans may be granted under this Act, by such Purposes for
which loans
may be
granted under
this Act.

NOTE (a).—Instruments executed by persons taking loans, or by their sureties as security for the repayment of such loans are exempted from stamp duty—see Act I of 1879, schedule II, article 12, and section 2 (2) of this Act.

which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in the manner provided by sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

NOTE.—In the Secretary of State for India v. Harinath published on pages 340 to 342 of Nagpur Law Report, Volume XXVI the following decision was given by the Judicial Commissioner :—

A loan under the Land Improvement Loans Act was advance to the occupancy tenant of a field. The malguzar of the village subsequently obtained possession of the field in execution of decrees passed at a date prior to the grant of the loan.

Held, that Government, by virtue of having granted the loan, had acquired first charge on the land concerned.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to or with the consent of a person mentioned therein for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

- (a) that the work described is an improvement within the meaning of this Act;
- (b) that the person mentioned had at the date of the order a right to make such an improvement; and
- (c) that the improvement is one benefiting the land specified.

9. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Liability of
joint
borrowers
as among
themselves.

10. The local Government may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely :—

Power to
make rules.

- (a) the manner of making applications for loans ;
- (b) the officers by whom loans may be granted ;
- (c) the manner of conducting inquiries relative to applications for loans and the powers to be exercised by officers conducting those inquiries ;
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans ;
- (e) the inspection of works for which loans have been granted ;
- (f) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid ;
- (g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same :
and
- (h) all other matters pertaining to the working of the Act.

RULES UNDER SECTION 10 OF THE LAND IMPROVEMENT LOANS ACT, 1883

A.—The manner of making applications for loans.

No. 136,
d. 17-5-09,
as amended by
Notfn.
No. 221-885-
A-XII,
d. 16-6-21,
No. 252-
785-XII,
d. 6-7-21,
No. 69-55-XII,
d. 10-1-24,
No. 2308-XII,
d. 3-7-25,
No. 1096-43-
XII, d. 23-3-27,
No. 3308-
1945-XII,
d. 16-10-30,
No. 3671-
2883-XII,
d. 22-11-32,
No. 1129-633-
A-XII,
d. 7-4-34,
Notfn.
No. 3709-XII,
d. 15-11-34.

1. Applications for loans shall be in the appended form A and they may be made to any revenue officer. Printed copies of this form shall be supplied, free of cost, at all tahsil offices, and shall be distributed on tour by revenue inspectors, whenever they are required. In the case of oral applications the form shall be filled in for the applicant by a revenue official.

NOTE.—Such applications are exempted from court-fees duty by Government of India notification no. 4650-A (12), dated the 19th September 1889.

B.—The officers by whom loans may be granted.

2. Loans may be granted only by officers to whom an allotment of funds for the purpose has been made by competent authority and only within the limits of that allotment.

3. Subject to the provisions of rule 2, loans may be made by Deputy Commissioners, Assistant and Extra-Assistant Commissioners, Canal Deputy Collectors and Tahsildars, or such other officers below the rank of Tahsildars who may be specially empowered to perform the functions of Tahsildars under this rule:—

Provided that—

- (1) No loan exceeding Rs. 5,000 in amount may be granted by the Deputy Commissioner without previous sanction of the Commissioner.
- (2) No loan exceeding Rs. 1,000 in amount may be granted by an Assistant and Extra-Assistant Commissioner and a Canal Deputy Collector.
- (3) No loan exceeding Rs. 500 in amount may be granted by a Tahsildar.

NOTE.—All Naib-Tahsildars who have been invested with powers of a Tahsildar under the Berar Land Revenue Code, 1928, are empowered to perform the functions of a Tahsildar under the Land Improvement Loans Act.

4. The Commissioner shall, out of the allotment of funds for the purposes of granting loans under the Act in his division, apportion a definite amount to each district. Deputy Commissioners will make allotments to such Assistant Commissioners, Extra-Assistant Commissioners, Canal Deputy Collectors and Tahsildars, as they consider it desirable to employ in granting loans, reporting the names of the officers to whom allotments are made, and the amount allotted to each, to the Commissioner. They may also limit the amount of individual loans to be granted by the officers to whom allotments are made we shall in no case exceed those specified in provisos (2) and (3) of rule 3.

NOTE.—Assistant Commissioners and Extra-Assistant Commissioners employee in the work should ordinarily be officers in revenue charge of a sub-division of the district.

as to render the payment of such instalment unduly burdensome to him. If suspension of land revenue has been granted on a large scale in any year over a wide area, the payment of taccavi instalments falling due in the same year from borrowers in such area shall be suspended automatically; provided that if, in the opinion of the Local Government circumstances justify such a course, it may direct that the recovery of taccavi shall not be suspended automatically and that the case of each borrower shall be considered on its merits. The original copy of order will be the authority for the payment of the loan from the treasury or sub-treasury, as the case may be, and will be presented to the Treasury Officer, who after payment will return the same to the Deputy Commissioner for record in the misl. The money may either be drawn by the borrower himself, in which case the original order should be made over to him; or it may be drawn and paid to him in the presence of the officer sanctioning the loan or of some gazetted officer. In both cases the duplicate copy of the order should be made over to the borrower to be retained by him. When immovable property is mortgaged as collateral security, the mortgage-deed in form D will be filed with the record and no copy of it need be given to the borrower, unless he asks for it. Officers while granting loans should comply with the requirements of section 89 of the Registration Act, XVI of 1908.

When the sureties, if any, whom the applicant furnishes, give personal security only, the bond to be executed by them shall be in form E hereto annexed. When immovable property is given as collateral security this security bond shall be in form D hereto annexed.

17. In the case of loans of Rs. 1,000 or more the money shall not, unless the Deputy Commissioner otherwise directs, be advanced in instalments exceeding Rs. 500, and no instalment after the first shall be advanced until it has been ascertained by local inspection that at least half the instalment last paid, as well as all the previous instalments, has been expended on the improvement for which the loan was sanctioned.

18. With a view to facilitate the prompt distribution of loans under the Act, Deputy Commissioners and any other revenue officers authorized by them may draw advances from the treasury in lump sums on abstract bills in the manner prescribed in the note appended to article 131 of the Civil Account Code. These will ordinarily be required only during the touring season, or where arrangements have been made to pay out a number of loans on fixed dates at district or tahsil headquarters. Individual loans sanctioned from time to time during the off season can be drawn on separate bills.

E.—The inspection of works for which loans have been granted.

19. Should there be any doubt as to the application of the loan in the manner specified in the order granting the loan, the Deputy Commissioner shall enquire into the matter, and if he finds that the loan has been misapplied, he may order its recovery with interest in a lump sum.

FORM C

Order granting a loan under the Land Improvement Loans Act, 1883.

The sum of Rs. _____ is hereby granted to A. B., son of _____ *(with the consent of C. D. _____). The record whereof is hereto annexed) as a loan under the Land Improvement Loans Act, 1883, for the following purposes, namely:—

Nature of the improvement for which the loan is granted, section 4, sub-section (2), of the Act	Description of the land to be benefited by the improvement	
	No. of field	Area

*To be inserted when the person to whom the loan is made has no right to make the improvement without the consent of another person.

2. The conditions of the loan are as follows:—

- (a) That the amount of this loan shall be paid to the aforesaid A. B. on the production of this order at the tahsil of * in the instalments and on the date specified below:—

Dates.

Instalments.

- (b) That the amount of this loan, with interest chargeable thereon, and costs (if any) incurred in the making thereof, shall be repayable to the person named at the place, on the dates and by the amount specified below:—

Name.	Place.	Date.	Principal.	Interest.	Cost (if any).
Total.					

- (c) That this loan shall be applied solely to the purpose specified above, and that if it shall be proved to the satisfaction of the Deputy Commissioner that any part of the loan has been misapplied, the whole amount of the loan shall, with such interest as may have become due thereon, as well as costs (if any), be deemed to be due at once.

- (d) That unless (*here enter any conditions as to the period or periods appointed for completing the work*) This class to be used only when needed. has been completed by (date) the loan shall be held to have been misapplied;

- (e) That if any instalment is not paid on the due date, interest at two annas six pies per rupee per annum may, at the discretion of the Deputy Commissioner, be charged on such instalment from the date of default.

- (f) That if any instalment is not paid on the due date, all future instalments shall, with such interest as may be due thereon, as well as costs (if any) incurred in making the loan, become due at once.

- (g) That the loan is secured on the land benefited and also on the land offered as collateral security in form D below.

Signature of the Deputy Commissioner.

I have understood and agreed to the aforesaid terms and conditions.

One anna stamp
when the sum
exceeds Rs. 20.

Signature of the person to whom the loan is granted.

*To be inserted only when the loan is payable in instalments.

FORM D

[To be printed as an appendix to Form C.]

Security bond to be used when immovable property is given as collateral security.

Whereas _____ has on _____ received from the Deputy Commissioner of _____ an order under the Land Improvement Loans Act, 1883, in virtue of which he is entitled to receive the aggregate sum of Rs. _____ as a loan from the Government for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) and whereas collateral security for the punctual repayment of the loan according to the terms of the order is demanded from the said _____ *I the said _____ †or I the said _____ and ‡we _____ or we mortgage to the Government the immovable property mentioned in the schedule below as a collateral security, and agree that if I fail (or the said _____ fails) duly to apply the said loan or to repay any instalment of the said loan or interest chargeable thereon or costs (if any) incurred in the making thereof, on the date on which it may become due, it shall be lawful for the Deputy Commissioner to recover from the said property all outstanding instalments of the loan and such sum as may be necessary to make good the amount which in consequence of my (or the said _____) default may be due from me (or him).

*To be used when the borrower alone gives collateral security.

†To be used when the borrower and his sureties all give collateral security.

‡To be used when the collateral security is given by sureties only.

FORM E

Whereas _____ has on _____ received from the Deputy Commissioner of _____ an order under the Land Improvement Loans Act, 1883, in virtue of which he is entitled to receive the aggregate sum of Rs. _____ as a loan from the Government for the purpose of (*here describe the work to be carried out*) for the benefit of (*here describe the land to be benefited*) we hereby agree that if the said _____ shall fail duly to apply the said loan or to repay any instalment of the said loan or interest chargeable thereon or costs (if any) incurred in the making thereof, on the date on which it may become due, we will be jointly and severally liable to the Government for such sum not exceeding _____ as may be necessary to make good the amount which in consequence of his default he may have become liable to pay.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land : Exemption of improvements from assessment of land revenue.

Provided as follows :—

- (1) Where the improvement consists of the reclamation of waste land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government.

RULES

The Chief Commissioner has made the following rules for Notfn. No. 612, d. 20-1-19.
the exemption of improvements from assessment to land revenue :—

1. When the improvement consists in the reclamation of waste land for agricultural purposes the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land reclaimed, so as to increase the amount of land revenue payable on account of such land, until the next general settlement of the district or tract in which the land is situated.

2. When the improvement consists in the construction of any of the following works which are hereby declared to be improvements within the meaning of section 4, sub-section (2), of the Act :—

- (a) tanks and ponds,
- (b) canals and water-channels,
- (c) durable wells,
- (d) durable lifts on the banks of streams,
- (e) substantial embankments for rabi crops, designed to convert land assessable at unirrigated rates into land assessable at irrigated rates, the increase in value of the land so improved shall not be taken into account in revising the assessment of land revenue so as to increase the amount of land revenue payable on account of such land, until the expiration of the full term of the first general settlement that may be made of the tract in which the land is situated after the year of the making of any such improvement.

- (2) Nothing in this section shall entitle any person to call in question any assessment of land revenue otherwise than at is might have been called in question if this Act had not been passed.

12. The powers conferred on a Local Government by sections 4 (1), 5 (1) and 10 may, in a province for which there is a Board of Revenue or a Financial Commissioner, be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner, as the case may be: provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the Local Government.

* This section was added by Act IV of 1914.

